

Exhibit A

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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

TOSHIBA INTERNATIONAL)
CORPORATION)

Plaintiff,)

v.) NO.: 4:19-cv-04274

ABRAHAM JOSEPH, an)
individual, ONEPOINT,)
INC., RUDOLPH CULP, as)
independent administrator)
of the ESTATE OF PABLO)
D'AGOSTINO, PD RENTALS,)
LLC, JANUARY 22 1992,)
LLC, VINOD VEMPARALA, an)
individual, V2V)
SOLUTIONS, LLC, and)
CHETAN VYAS, an)
individual,)
Defendants.)

ORAL AND VIDEOTAPED DEPOSITION OF
CONFIDENTIAL
ABRAHAM JOSEPH
December 16, 2020
Volume 1

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1 ORAL AND VIDEOTAPED DEPOSITION OF ABRAHAM
2 JOSEPH, produced as a witness at the instance of the
3 Plaintiff, and duly sworn, was taken in the above-styled
4 and numbered cause on the 16th day of December, 2020,
5 from 7:03 p.m. to 7:20 p.m., via videoconference before
6 Abigail Guerra, CSR, in and for the State of Texas,
7 reported by machine shorthand, via Zoom where all
8 attendees appeared at their respective locations,
9 pursuant to the Federal Rules of Civil Procedure and the
10 provisions stated on the record or attached hereto.

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A P P E A R A N C E S

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A P P E A R A N C E S (cont'd)

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ALSO PRESENT:

Mr. Dan Lapeyrouse, Videographer

Ms. Margaret McKay

Ms. Kay Peterson

Mr. Timothy Fraser

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1 THE VIDEOGRAPHER: We're now on the record.
2 Today is December 16, 2020. The time is approximately
3 9:11. This is Video 1 of Abraham Joseph.

4 Will counsel please identify themselves and
5 the parties they represent.

6 MR. DANIELS: This is Doug Daniels. With
7 me in the room is Kelly Stephens and Lauren Harris on
8 behalf of OnePoint and Mr. Joseph.

9 MR. DOW: Sanford Dow on behalf of the
10 D'Agostino defendants.

11 MR. HUSTON: Penn Huston on behalf of
12 Vinod Vemparala and V2V Solutions.

13 MR. FRIDMAN: All right. For the
14 plaintiffs, I am Dan Fridman from the law firm of
15 Fridman, Fels & Soto on behalf of the plaintiff Toshiba
16 International Corporation.

17 With me here today is cocounsel, appearing
18 virtually, Sam Sharp, Stephanie Rice, Dara Jeffries --
19 just a second -- and Ashley Stoner.

20 And appearing on behalf of Toshiba
21 International Corporation are Timothy Fraser, Margaret
22 McKay, and Kay Peterson.

23 THE VIDEOGRAPHER: Thank you.

24 Will the court reporter please swear in the
25 witness.

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1 (Witness sworn.)

2 MR. DANIELS: Can we get a couple of things
3 on the record first, Dan?

4 MR. FRIDMAN: Sure. Go ahead.

5 MR. DANIELS: So first of all, we're going
6 to designate this transcript as confidential pursuant to
7 the protective order. I want to do that now in case I
8 forget it again.

9 And then the other thing is, we didn't talk
10 about time limits. I -- I wanted to make this point
11 that -- that OnePoint is not Toshiba. Toshiba is a huge
12 company with hundreds of thousands of different people,
13 different operation areas. OnePoint is, in effect,
14 Mr. Joseph in the sense that there's very little aside
15 from a few mundane details about -- that he would know
16 as the corporate rep that he would not also know
17 individually.

18 So I'm willing to extend the normal seven
19 hours by a little bit, but I think we ought to be able
20 to do this, his individual and corporate rep capacity in
21 eight hours of testimony. I'm willing to concede that,
22 but let's -- you know, we -- let's see how it goes, and
23 if it looks like we may need a little more, we can talk
24 about it. But I just wanted to make that point at the
25 outset that most of what he would know as a corporate

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1 representative, he would also know in his individual
2 capacity.

3 MR. FRIDMAN: Understood, Mr. Daniels. We
4 have taken some steps ourselves to try to expedite the
5 deposition by sending you, by FileShare, all the
6 exhibits premarked in advance, and we've already
7 uploaded them all to the share site so we don't have to
8 spend time waiting for documents to load.

9 And, you know, we -- we'll see how it goes.
10 Our goal is to finish today, but we'll -- we'll check in
11 throughout the day and -- and make sure we're on track
12 for that.

13 MR. DANIELS: Okay.

14 MR. HUSTON: Can I ask a question? This is
15 Penn Huston. If you do not finish today, do you intend
16 to continue tomorrow or -- or reconvene at -- on a
17 different day?

18 MR. FRIDMAN: We've discussed with counsel,
19 Mr. Joseph {sic}, to have tomorrow open if -- if needed
20 as we did for Toshiba's corporate reps. So that --
21 that's our -- our plan. Although, again, we -- we would
22 like to try to finish today.

23 MR. HUSTON: Okay. Yeah. That -- that
24 would be wonderful. And I have some -- some interest in
25 knowing as soon as possible whether this will continue

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1 into tomorrow. So if you discuss that offline, please
2 include me in those communications. I have some things
3 I need to move around.

4 MR. FRIDMAN: Understood.

5 MR. HUSTON: Thank you.

6 MR. FRIDMAN: All right. Any other
7 preliminary matters?

8 MR. DANIELS: None here.

9 MR. FRIDMAN: All right. Then let's
10 proceed.

11 Has Mr. Joseph been sworn in?

12 MR. DANIELS: He has.

13 THE WITNESS: Yes.

14 MR. FRIDMAN: I'm -- I'm looking at the
15 transcript, and I -- I don't see -- I don't see the
16 sworn in. Can we just repeat it just in case?

17 THE CERTIFIED STENOGRAPHER: He was sworn,
18 and I just put in the blurb that he was sworn in. We
19 did it before you did the instructions.

20 MR. FRIDMAN: Understood.

21 ABRAHAM JOSEPH,
22 having been first duly sworn, testified as follows:

23 DIRECT EXAMINATION

24 BY MR. FRIDMAN:

25 Q. All right. Good morning, Mr. Joseph.

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1 A. Good morning, Dan.

2 Q. Have you been sworn in to testify under oath
3 today, Mr. Joseph?

4 A. Yes.

5 Q. And the testimony you will give today will be
6 truthful, right?

7 A. Yes.

8 Q. Mr. Joseph, do you know what a bribe is?

9 A. Yes.

10 Q. Tell me what is your understanding of what a
11 bribe is.

12 MR. DANIELS: Objection. Form.

13 You can answer.

14 A. A bribe is where someone gets something for
15 a -- for a service that is -- that is rendered to them,
16 almost like quid pro quo.

17 Q. (BY MR. FRIDMAN) So can -- can we agree that a
18 bribe is a giving of a benefit to a company employee to
19 influence that employee's decision in your favor?

20 MR. DANIELS: Objection. Form.

21 You can answer.

22 A. It's not just a company. It could be an
23 individual. It could be anybody.

24 Q. (BY MR. FRIDMAN) Like a politician?

25 A. Yes.

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1 Q. All right. So focusing in on a company
2 employee, tell me what your understanding would be of
3 paying a bribe to a company employee.

4 MR. DANIELS: Objection. Form.

5 You can answer, if you know.

6 A. I -- I cannot answer that. I -- I don't have
7 the answer to that.

8 Q. (BY MR. FRIDMAN) Okay. So can we agree that
9 for a company employee, the payment of a bribe is the
10 giving of a benefit to that employee to influence a
11 decision that that employee would make in your favor?

12 MR. DANIELS: Objection. Form.

13 Answer if you can.

14 A. I don't know the answer to that.

15 Q. (BY MR. FRIDMAN) All right. Well, is it wrong
16 to pay bribes?

17 MR. DANIELS: Object to the form.

18 A. Yes.

19 Q. (BY MR. FRIDMAN) Why?

20 A. Because you're getting something for paying
21 that you're not entitled to.

22 Q. And who are you paying?

23 MR. DANIELS: Objection. Form.

24 A. To the person making the decision.

25 Q. (BY MR. FRIDMAN) And you said before that it's

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1 like a quid pro quo, right?

2 A. That is correct.

3 Q. You pay the employee, and the employee returns
4 the favor to you, right?

5 A. Correct.

6 Q. That's what a bribe is?

7 A. Correct.

8 Q. Do you understand that it is against the law to
9 pay bribes?

10 MR. DANIELS: Object to the form.

11 A. Yes.

12 Q. (BY MR. FRIDMAN) Does your company, OnePoint,
13 allow its employees to accept bribes?

14 A. No.

15 Q. Why not?

16 A. Because it's not the right thing to do.

17 Q. Does your company, OnePoint, allow its
18 employees to pay bribes?

19 A. No.

20 Q. Why not?

21 A. It's not the right thing to do.

22 Q. Do you expect your employees to always do
23 things in the best interest of your company?

24 A. Yes.

25 Q. Did you ever give a bribe to Pablo D'Agostino?

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1 A. No.

2 Q. All right. I'm going to put on the screen the
3 first exhibit, which will be Exhibit 48.

4 MR. FRIDMAN: So if everyone goes through
5 the marked exhibits and clicks through Exhibit 48, you
6 will see that Exhibit 48 is Toshiba International
7 Corporation's first set of interrogatories to defendant,
8 OnePoint, Inc.

9 MR. DANIELS: Just a second.

10 MR. FRIDMAN: What I'm going to do --

11 MR. DANIELS: Yeah, just a second. We're
12 trying to pull it up.

13 MR. FRIDMAN: What I'm going to do is share
14 the screen so that you can see the document.

15 MR. DANIELS: Do you see it?

16 THE WITNESS: I see it, but I need -- I --
17 I have another little thing that is on top of it. So
18 should I click "continue" --

19 MR. DANIELS: Not yet.

20 MR. FRIDMAN: Having a little trouble
21 hearing you, Mr. Joseph. Can -- maybe you got --

22 MR. DANIELS: Yeah. He had -- he had a --
23 a Zoom --

24 THE WITNESS: -- superimposed on the
25 document.

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1 MR. FRIDMAN: Superimposed. He fixed that,
2 so he can see it now.

3 THE WITNESS: Yeah.

4 Q. (BY MR. FRIDMAN) Okay. And -- and I -- I've
5 zoomed in on the document that I'm showing you.

6 Can you see that, Mr. Joseph?

7 (Exhibit 48 marked.)

8 A. Yes.

9 Q. (BY MR. FRIDMAN) All right. So have you seen
10 Exhibit 48 before?

11 A. Yes.

12 Q. These are questions that Toshiba International
13 Corporation asked you to answer in this litigation,
14 right?

15 A. Yes.

16 Q. And did you answer the questions?

17 A. Yes.

18 Q. So what I'm going to do now is I'm going to go
19 to one of the exhibits that's attached to Exhibit 48 at
20 the end.

21 Actually, before I get there, let's --
22 yeah, let's -- let's go straight to Exhibit A.

23 Do you see that on your screen?

24 A. Yes.

25 Q. All right. Exhibit A contains two W-2s issued

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1 by OnePoint, Inc. I'm going to scroll through them so
2 that you can see them. One is for 2007, and the other
3 is for 2008.

4 Do you see that?

5 A. Yes.

6 Q. Let's start with the 2007 W-2. It says that
7 the employer's name is OnePoint, Inc., correct?

8 A. Correct.

9 Q. And the employee's name is identified as
10 Pablo H. D'Agostino; is that right?

11 A. That is correct.

12 Q. And it says that Pablo H. D'Agostino received
13 wages in 2007, from OnePoint, Inc. of \$24,084; is that
14 right?

15 A. Correct.

16 Q. So in 2007, did OnePoint have Pablo D'Agostino
17 on its payroll?

18 A. Yes.

19 Q. You were responsible for putting Pablo
20 D'Agostino on OnePoint's payroll, right?

21 A. Yes.

22 Q. So in 2007, how much did OnePoint pay Pablo
23 D'Agostino through payroll?

24 A. 24,084.

25 Q. Okay. Let's go to 2008.

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1 Did -- did OnePoint have Pablo D'Agostino
2 on its payroll as an employee in 2008?

3 A. Yes.

4 Q. How much did OnePoint pay Pablo D'Agostino as
5 an employee in 2008?

6 A. 66,553.90.

7 Q. Okay. So I -- I believe -- you can correct me
8 if I'm wrong -- I believe it's 66,453.90?

9 A. That is correct.

10 Q. All right. Were you uncomfortable putting
11 Pablo D'Agostino on OnePoint's payroll?

12 A. I was hesitant to do it.

13 Q. Why?

14 A. The way he put it to me, he said that if you
15 want to continue to work at Toshiba, you'll have to
16 compensate me, and I -- I looked -- I viewed him as
17 Toshiba. He was the face of Toshiba, and I complied to
18 his and Toshiba's requirements.

19 Q. Did you have any concerns that it was against
20 the law to place Pablo D'Agostino on OnePoint's payroll?

21 A. I did not know that.

22 Q. Well, you said you were hesitant to do it. Why
23 were you hesitant?

24 A. My initial thought was that I just didn't want
25 to put him on my payroll.

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1 Q. Why?

2 A. Because no one is -- none of my other clients
3 have -- has ever told me to do that before. This is the
4 first time that someone from a major company asked me to
5 do that.

6 Q. So why did you do it?

7 A. I did it because we wanted to stay in Toshiba
8 and continue working in Toshiba, and he said -- and we
9 complied with what -- to me, he was the face of Toshiba.
10 He demanded it, and I complied to it. And I played by
11 his rules -- Toshiba's rules.

12 Q. So is that a -- an example of a quid pro quo?

13 A. I don't know.

14 Q. What is a quid pro quo?

15 A. I think a quid pro quo is something that is
16 directly assigned to -- to a project or something that
17 you're guaranteed. This is just -- there is no
18 guarantee that I will be there. But he said that this
19 is the requirement, and I was following the
20 requirements.

21 Q. All right. So Pablo -- your -- your testimony
22 is that Pablo D'Agostino said to you that in order for
23 you to do business with Toshiba, you had to pay him; is
24 that right?

25 A. He said if you want to continue to stay in

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1 Toshiba, then put me on your payroll.

2 Q. Okay. And that's what you did, right?

3 A. That's what I did.

4 Q. When was the first payment that you made to
5 Pablo when he was on your payroll?

6 A. I'll have to go back. Whatever the date was.
7 I think -- I -- I don't remember the exact date.

8 Q. All right. How often did you pay Pablo
9 D'Agostino?

10 A. There was no fixed -- as and when he asked me,
11 I wouldn't pay him.

12 Q. So he wasn't getting payments from OnePoint
13 every week or every month?

14 A. Oh. On this payroll, yes, he was getting on a
15 biweekly basis.

16 Q. Biweekly?

17 A. Yeah.

18 Q. So what was his salary?

19 A. I don't remember, and I don't want to
20 speculate. But if we -- I guess if we do the math, we
21 can -- I think it was -- I'm just going to speculate, it
22 was 25, 30 bucks an hour, maybe.

23 Q. So you had him on your payroll as an hourly
24 employee?

25 A. That is correct.

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1 Q. And you were paying him 25 to \$30 an hour?

2 A. I -- I don't know the exact number, but
3 probably in that range.

4 Q. Were you paying him overtime?

5 A. No.

6 Q. And all this time that Pablo D'Agostino was on
7 OnePoint's payroll, he was a full-time employee at
8 Toshiba International Corporation, right?

9 MR. DANIELS: Objection to form.

10 Answer if you know.

11 A. That is correct.

12 Q. (BY MR. FRIDMAN) What work did Pablo
13 D'Agostino do for OnePoint while he was on OnePoint's
14 payroll?

15 A. Nothing really. But every once in a while he
16 would say, Hey, there is a project that you could do,
17 you know, somewhere else. He would just give me a
18 little lead or something.

19 Q. He would refer you work?

20 A. He wouldn't refer me directly to a person. He
21 would just suggest to me what other work I could do
22 somewhere else.

23 Q. And would he personally work on the project?

24 A. No, he would not.

25 Q. And did any of the leads that Pablo D'Agostino

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1 gave you result in any work for you?

2 A. It did not.

3 Q. How did OnePoint pay Pablo D'Agostino?

4 MR. DANIELS: Object to form.

5 You're talking about during this time?

6 MR. FRIDMAN: Yes. Between 2007 and 2008,
7 when Pablo D'Agostino was on OnePoint's payroll, how did
8 OnePoint transfer the funds for its payment to him?

9 A. I don't recall exactly whether it was directly
10 through Paychex or if I wrote a check. I don't recall.

11 Q. (BY MR. FRIDMAN) So do you remember if it was
12 a physical check or a wire transfer?

13 A. It was a physical check.

14 Q. And who would sign the checks?

15 A. I'm looking at this W-2. If Paychex is the
16 company that I used, they would -- they already have my
17 signature in their -- my signature block is in there.
18 So I was not personally signing it to the best of my
19 knowledge.

20 Q. Okay. How would Paychex know to send a payment
21 to Pablo D'Agostino?

22 A. Because they are in the -- in the list of all
23 the other employees. So the checks would be billable to
24 us by a paycheck, or in some cases, it would be a direct
25 deposit.

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1 Q. So did Pablo D'Agostino give you his bank
2 account information for direct deposit?

3 A. I don't recall if it was direct deposit or if
4 he was picking up the check. I don't recall.

5 Q. Did you mail the checks to him or give them to
6 him personally?

7 A. I did not mail it to him, but I don't recall
8 how he picked it up.

9 Q. Did you give him the checks in person at
10 Toshiba?

11 A. I don't remember that.

12 Q. So if I'm doing my math right, OnePoint paid
13 Pablo a total of about \$100,000 between 2007 and 2008?

14 A. If that is the total, yes.

15 Q. Did OnePoint pay taxes on Pablo D'Agostino's
16 wages?

17 MR. DANIELS: Objection. Form.

18 A. Yes.

19 Q. (BY MR. FRIDMAN) Did OnePoint take a deduction
20 as an expense in its income tax filings for Pablo
21 D'Agostino's salary?

22 A. I don't remember. But if -- if he was on the
23 payroll, yes.

24 Q. Okay. Was Pablo D'Agostino ever a real, bona
25 fide employee of OnePoint?

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1 MR. DANIELS: Object to the form.

2 A. No.

3 Q. (BY MR. FRIDMAN) So he was a fake employee on
4 your payroll, right?

5 MR. DANIELS: Form.

6 (Reporter clarification.)

7 A. I'm not sure if he was a fake employee because
8 he said he was going to give me some leads. I was
9 hoping something would happen.

10 Q. (BY MR. FRIDMAN) But he also said that you
11 needed to pay him so that he would send you business
12 from Toshiba International Corporation, right?

13 MR. DANIELS: Object to the form.

14 A. He did not say he'll send me business. He
15 said, if you want to continue to stay in Toshiba and if
16 you want to be in Toshiba, put me on the payroll.

17 Q. (BY MR. FRIDMAN) Did you tell your accountant
18 for OnePoint that Pablo D'Agostino was not a bona fide
19 employee?

20 A. I don't recall that conversation.

21 Q. Who was your accountant in 2007 and 2008?

22 A. I don't recall his name right now.

23 Q. Can you find out?

24 A. I can find out.

25 Q. Is -- do you have the same accountant today?

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1 A. No.

2 Q. Who is your accountant today?

3 A. His name is Jay Ojha.

4 Q. Can you spell that?

5 A. J-A-Y, O-J-H-A.

6 Q. And is Mr. Ojha in the Houston area?

7 A. Yes.

8 Q. Why did you put Mr. D'Agostino on your payroll
9 instead of, say, giving him a suitcase of \$100,000 in
10 cash?

11 MR. DANIELS: Objection. Asked and
12 answered.

13 A. He did not ask me for a suitcase full of bank.
14 He asked me to put me on the payroll if I wanted to
15 continue to stay at Toshiba.

16 Q. (BY MR. FRIDMAN) Okay. So -- and was -- was
17 the reason for it to disguise the wages -- to disguise
18 as wages the illegal purpose of the money you were
19 paying him?

20 MR. DANIELS: Object to the form.

21 A. No, it was not to disguise. I followed his
22 instructions. I viewed him as Toshiba Corporation, and
23 I complied with his requirements.

24 Q. (BY MR. FRIDMAN) Did you ever discuss with
25 anyone at Toshiba International Corporation the fact

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1 that you were placing Pablo D'Agostino on your payroll?

2 A. I did not.

3 Q. Why not?

4 A. At that time, the only person I knew at Toshiba
5 was Pablo.

6 Q. So you didn't complain to Pablo's supervisor?

7 A. No, I did not.

8 Q. You didn't complain to the president of
9 Toshiba?

10 A. No, I did not.

11 Q. Why not?

12 A. Because I thought I was doing what both him and
13 the company required.

14 Q. Well, if you were uncomfortable about it, as
15 you put it, "hesitant," why didn't you complain to
16 someone higher up in the company?

17 A. I was hesitant because none of my other 20-odd
18 clients that I have have ever made this request. It was
19 a very strange request. So I was initially hesitant.

20 Q. So you agreed with Pablo D'Agostino to pay him
21 in this way through your payroll, right?

22 A. I complied with his -- his request, and I
23 played with TIC's requirements.

24 Q. Well, you keep saying it's TIC's requirements,
25 and I understand that is the defense you come here with

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1 today, but please explain to me where you got, other
2 than from Pablo D'Agostino, that Toshiba required you to
3 pay its facilities manager?

4 MR. DANIELS: Object to the sidebar.

5 You can answer.

6 A. Can you repeat the question, please?

7 Q. (BY MR. FRIDMAN) Yes.

8 I understand that is the defense you've
9 come here today, but please explain to me where you got,
10 other than from Pablo D'Agostino, that it was a
11 requirement of Toshiba International Corporation for you
12 to put its facilities manager on its payroll?

13 MR. DANIELS: Again, I object to the
14 sidebar.

15 Answer if you can.

16 A. I -- I don't know the answer. I don't know.

17 I viewed him -- I viewed him as a
18 representative of Toshiba.

19 Q. (BY MR. FRIDMAN) Did you understand that each
20 payment you made to Pablo D'Agostino on a bimonthly
21 basis was a bribe?

22 MR. DANIELS: Object to the form.

23 A. No, it's not.

24 Q. (BY MR. FRIDMAN) Why isn't it a bribe?

25 MR. DANIELS: Object to the form.

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1 A. Because, there again, I'm complying with what
2 he asked me to do.

3 Q. (BY MR. FRIDMAN) So if Mr. D'Agostino asked
4 you to join him in robbing a bank, would you have
5 complied with that?

6 MR. DANIELS: Object to the form.

7 A. I would not.

8 Q. (BY MR. FRIDMAN) Why not?

9 A. Because that would be -- I -- I wouldn't rob a
10 bank. I've not done that. So I wouldn't comply with
11 it.

12 Q. All right. So you're willing to say that you
13 wouldn't do everything that Pablo D'Agostino might ask
14 you to do to -- to continue to do business with Toshiba?
15 There's a limit; is that right?

16 A. Yes.

17 Q. So robbing a bank with him is out of the
18 question, right?

19 A. Yes.

20 Q. Placing him on his payroll -- on your payroll,
21 that was okay?

22 A. At that time, I thought it was okay.

23 Q. And do you understand that by agreeing to pay
24 Pablo D'Agostino, you were engaging in theft from
25 Toshiba?

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1 MR. DANIELS: Object to the form.

2 A. I didn't see it that way.

3 Q. (BY MR. FRIDMAN) Do you see it that way now?

4 A. I don't see it that way now, too.

5 Q. All right. So let me go to the next document
6 here.

7 Was this the only time that you had
8 Pablo D'Agostino on your payroll?

9 A. That is correct.

10 Q. When did you remove Pablo D'Agostino from
11 his -- from your payroll?

12 A. I have to look at the W-2. I guess it was
13 in -- whatever is on the W-2. It was in August 2009. I
14 don't know the exact dates.

15 Q. You think it was August of 2009?

16 A. I think so. I'm not sure.

17 Q. And when did you first place him on the
18 payroll?

19 A. I don't know the exact date. Maybe six or
20 seven months prior to that.

21 Q. Well, he had about \$26,000 -- sorry -- \$24,000
22 of wages in 2007, right?

23 A. I'm not sure if I put him on 2007 or 2008. But
24 if you can put the W-2 back, I can tell you exactly.

25 Q. All right. Let me share my screen again.

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1 Can you see that now?

2 A. Yeah, I see that now.

3 Q. All right. Clearly part of it.

4 A. Yeah, probably.

5 Q. So what is your -- your best understanding of
6 when OnePoint first put Pablo D'Agostino on its payroll
7 in 2007, considering that he received \$24,084 that year?

8 A. My best estimate would be towards the latter
9 part of 2007.

10 Q. Was that close to the time that you first
11 started doing work for Toshiba International
12 Corporation?

13 A. It wouldn't be the exact time, but it would be
14 after some time that I was there.

15 Q. Approximately, how long after you started doing
16 work for Toshiba International Corporation did you pay
17 -- pay -- place Pablo D'Agostino on your payroll?

18 A. It was in the same year, but I don't know it --
19 exactly how many months later.

20 Q. It was in the same year, but -- of 2007, right?

21 A. That is correct.

22 Q. And maybe a few months before?

23 A. It's definitely a few months. I started
24 definitely a few months later. But I don't know exactly
25 how many months lapsed between me starting and starting

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1 him on the payroll, but there was definitely a gap in
2 between.

3 MR. FRIDMAN: All right. I'm going to show
4 Mr. Joseph Exhibit 37.

5 (Exhibit 37 marked.)

6 Q. (BY MR. FRIDMAN) And I'm going to put that on
7 the screen for you, Mr. Joseph.

8 A. Okay.

9 Q. Can you see Exhibit 37?

10 A. Yes.

11 Q. All right. Exhibit 37 is "Defendant OnePoint,
12 Inc.'s Supplemental Objections and Responses to
13 Plaintiff's First Set of Interrogatories," right?

14 A. Right.

15 Q. Do you recognize Exhibit 37?

16 A. Yes.

17 Q. Are these the sworn interrogatory responses
18 that you provided, answering the questions that we sent
19 to OnePoint?

20 MR. DANIELS: Can you page all the way down
21 so we can confirm that his signature --

22 Q. (BY MR. FRIDMAN) So I've turned to page -- I
23 think it would be 55 where it says, "verification."

24 Is that your signature on Page 55?

25 A. Yes.

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1 Q. And you wrote (as read): "I, Abraham Joseph,
2 declare that I am properly authorized to execute
3 defendant OnePoint, Inc.'s Supplemental Objections and
4 Responses to Plaintiff's First Set of Interrogatories,"
5 right?

6 A. Right.

7 Q. And you wrote (as read): "I have reviewed
8 OnePoint, Inc.'s Supplemental Responses and declare,
9 under penalty or {sic} perjury, under the laws of the
10 United States that the facts stated in the foregoing
11 supplemental responses are true and correct as of
12 October 14th, 2020, to the extent those facts are based
13 upon my personal knowledge that I am informed and
14 believe that the facts are true and correct," correct?

15 A. That's correct.

16 Q. So I want to turn your attention to your
17 response to Interrogatory No. 1. And Interrogatory
18 No. 1 asks you to explain why OnePoint placed TIC's
19 facilities manager, Pablo D'Agostino, on its payroll as
20 an employee, right?

21 A. Right.

22 Q. You understand that when I say "TIC" during
23 this deposition, I'm referring to the plaintiff Toshiba
24 International Corporation, right?

25 A. Right.

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1 Q. So in your response, you wrote (as read): "In
2 November 2007, Pablo D'Agostino pressured OnePoint to
3 put him on its payroll and Mr. D'Agostino was removed
4 from OnePoint's payroll in August 2008"; is that right?

5 A. That is correct.

6 Q. So is November 2007, when you first put
7 Pablo D'Agostino on your payroll?

8 A. That is correct.

9 Q. Do you have any records that you're aware of
10 that would show when Pablo D'Agostino was placed on your
11 payroll?

12 A. I believe I do.

13 Q. What records would you have?

14 A. It could be from Paychex.

15 Q. So you think it's something that you can
16 request from Paychex?

17 A. I can -- yes.

18 Q. And do you understand that the W-2s that I
19 showed you, we didn't get those W-2s from OnePoint.

20 A. I did not have the W-2 in my possession. They
21 did ask me. I do not have it.

22 Q. We received them from the estate of
23 Pablo D'Agostino.

24 Did you know that?

25 A. I -- I don't know where you got it from.

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1 Q. And Mr. D'Agostino apparently had it in a safe
2 deposit box.

3 MR. DANIELS: Is that a question?

4 MR. FRIDMAN: Yes.

5 Q. (BY MR. FRIDMAN) Are you aware of that?

6 A. Oh, no. I was not aware of that.

7 Q. What efforts did you make to contact Paychex to
8 get records of these payments for Toshiba International
9 Corporation?

10 MR. DANIELS: Him personally or his lawyers
11 on his behalf?

12 MR. FRIDMAN: Both.

13 MR. DANIELS: Don't answer about your
14 lawyers. You can answer if you personally did.

15 A. I looked for actual Paychex reports that we
16 had, not -- I definitely did not have the W-2. I told
17 them that point-blank. But as far as the -- the yearly
18 reports, I could not go as far back as 2007. But I -- I
19 recently moved and -- I recently moved and we -- we
20 moved from one office to the other. So I think I may
21 have -- not the W-2s for sure -- I may have Paychex's --
22 biweekly reports where I can probably look for this
23 particular document that shows that he was on the
24 payroll.

25 Q. (BY MR. FRIDMAN) All right. Do you have

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1 company tax returns from 2007 and 2008?

2 A. I believe I do, but I'm not sure.

3 Q. Have you tried to locate those tax returns?

4 A. Not recently.

5 Q. All right. So Pablo D'Agostino asked you to
6 pay him, right?

7 A. He didn't ask me to pay him. He told me to put
8 -- put him on the payroll.

9 Q. Okay. And you did that, right?

10 A. Yes, I did that.

11 Q. And you had Paychex issue him checks bimonthly,
12 right?

13 A. I believe it was -- yeah, bimonthly. That is
14 correct.

15 Q. And in exchange, Pablo D'Agostino made sure
16 that OnePoint won lucrative TIC projects for
17 construction and maintenance, right?

18 MR. DANIELS: Objection to form.

19 A. That is not true. I was guaranteed that I will
20 be kept at TIC and not fired from TIC.

21 Q. (BY MR. FRIDMAN) I fail to see the
22 distinction, Mr. Joseph.

23 What -- what about my statement is not
24 true?

25 MR. DANIELS: Object to the sidebar.

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1 A. He did not clearly tell me that -- put me on
2 the payroll, and I'm going to give you an X, Y, and Z
3 project. There was no direct correlation.

4 Q. (BY MR. FRIDMAN) But from 2007 to about 2011,
5 OnePoint received at least \$32 million worth of business
6 from TIC, right?

7 A. I don't have the exact number, but close to
8 that.

9 Q. That sounds about right, doesn't it?

10 A. I don't know exactly, but it -- it could be
11 close.

12 Q. And OnePoint won probably close to at least 100
13 bids in that period of time, right?

14 MR. DANIELS: I'm going to object to you
15 asking him about specific numbers if you have documents
16 that show that. Otherwise, you're asking him to recall
17 numbers from 13 years ago that -- it's not fair. You're
18 asking him specific numbers, not showing him anything to
19 refresh his recollection, so I'm objecting to that.

20 MR. FRIDMAN: Mr. Daniels, are you
21 testifying here today?

22 MR. DANIELS: You know the answer to that.

23 MR. FRIDMAN: All right. So please stop
24 coaching the witness.

25 MR. DANIELS: No. I'm not coaching the

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1 witness. I'm coaching you to ask better questions.

2 Q. (BY MR. FRIDMAN) Mr. Joseph, can you answer
3 the question, please?

4 A. Can you repeat the question?

5 Q. Yes.

6 Give me your best recollection of how many
7 times you bid and won a bid at TIC between 2007 and
8 2011?

9 A. I cannot give you an exact number because we
10 did several projects over there. So without going
11 through my actual reports, I cannot tell you that. But
12 we have also launched several projects, too.

13 Q. Is it more than ten projects that you bid on
14 and won?

15 A. In a period of how long?

16 Q. Between 2007 and 2011?

17 A. It's more than ten.

18 Q. Is it more than 20?

19 A. Yes.

20 Q. More than 30?

21 A. Yes.

22 Q. More than 50?

23 A. I'm not sure. I don't know.

24 Q. So between 30 and 50 projects that OnePoint bid
25 on and won at Toshiba between 2007 and 2011, right?

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1 A. That's my best estimate.

2 Q. Okay.

3 A. It could be more; it could be less.

4 Q. So Pablo D'Agostino delivered for OnePoint,
5 right?

6 MR. DANIELS: Objection. Form.

7 A. He did not deliver. We -- we bid on projects,
8 we gave them our quality work. They were happy with our
9 work, and we got paid for our work.

10 Q. (BY MR. FRIDMAN) And you didn't tell anyone
11 at TIC that you paid Pablo almost \$100,000, right?

12 A. No, I did not.

13 Q. And you didn't tell anyone at TIC because you
14 wanted to keep your payments to Pablo D'Agostino secret,
15 right?

16 A. I didn't -- I didn't tell anybody that because
17 I wanted to -- the business with TIC and stay in TIC.

18 Q. Well, I mean, and you knew that if Pablo
19 D'Agostino's supervisor found out about it, you would no
20 longer be doing business for TIC, right?

21 A. I -- I don't know that.

22 Q. You're telling me you think TIC was going to
23 let Pablo D'Agostino get payments from a major vendor?

24 MR. DANIELS: Objection. Form.

25 A. I don't know what -- what their policy is. I

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1 viewed Pablo as the front of TIC.

2 Q. (BY MR. FRIDMAN) Is that your policy for your
3 company? Do you allow your employees to take payments
4 of \$100,000 from vendors?

5 A. It depends on what conditions they are taking
6 it.

7 Q. Okay. What -- what condition would you allow
8 your employees to get paid by a vendor?

9 A. I can't think of an answer for that.

10 Q. It's because it's unreasonable, right?

11 MR. DANIELS: Objection. Form.

12 A. It may not be unreasonable to some companies.
13 That might be their normal business practice.

14 Q. (BY MR. FRIDMAN) What company have you ever
15 heard of that would allow this conduct?

16 A. I can't name any particular companies, but
17 there could be some.

18 Q. Isn't this just a justification you've come up
19 with after the fact to justify bribery of Toshiba's
20 facilities manager, right?

21 MR. DANIELS: Objection. Form. Don't
22 answer that.

23 (Reporter clarification.)

24 Q. (BY MR. FRIDMAN) You didn't want TIC's
25 payments to OnePoint to end, right?

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1 A. Can you repeat that question, please?

2 Q. You didn't want TIC's payments to OnePoint --
3 which, as you've testified, were in the neighborhood of
4 \$32 million between 2007 and 2011 -- to end, right?

5 A. I did not wanted to be fired from TIC, I wanted
6 to continue to stay in TIC.

7 Q. Were you aware that in later years,
8 Pablo D'Agostino received payments from Mr. Sudhakar
9 Kalaga?

10 A. I found out about that after this lawsuit
11 happened in reading some of the -- I guess the -- the
12 complaints.

13 Q. So you did not know that Pablo D'Agostino was
14 receiving payments at the time he was receiving them
15 from Mr. Kalaga?

16 A. I did not know that for a fact. I couldn't
17 prove it.

18 Q. Did you suspect it?

19 A. Just a little bit, yes.

20 Q. Tell me, when did you first suspect Pablo was
21 receiving payments from Sudhakar Kalaga?

22 A. I don't know when he first received it.
23 Sorry -- what was your question again?

24 Q. My question was when you first suspected that
25 Pablo was receiving money from Sudhakar Kalaga.

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1 A. Well, I had a little suspicion because I would
2 be bidding on a lot of jobs, and I would never get those
3 projects. And so -- and he would be getting all those
4 projects. And each time, I would go back to Toshiba,
5 and I would see the projects that I bid on would be
6 under construction. I was never told I didn't even get
7 it.

8 I would ask Pablo. I said, How come I
9 didn't get this job? And he would say, Well, that --
10 that was a corporate decision, and I had nothing to do
11 with it. And then I would see Sudhakar's stack on the
12 jobsite. So that's when I started suspecting something
13 was going on.

14 Q. And did you discuss your suspicions with
15 anyone?

16 A. No, I did not.

17 Q. And why did you suspect that Pablo was getting
18 paid by Mr. Kalaga?

19 A. Because he's -- he almost quit, and then he --
20 he started giving -- I saw they were -- they were
21 getting a lot of jobs. And so I just felt that
22 something was up, but I had no proof to prove it.

23 Q. So did you suspect that Pablo was doing with
24 Mr. Kalaga what Pablo had been doing with you?

25 A. I don't know what exactly he was doing with

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1 Kalaga, so I cannot speculate on that.

2 Q. Did you suspect that Mr. Kalaga was paying
3 Pablo more than you paid Pablo?

4 A. I -- I don't know exactly what Kalaga paid
5 Pablo, so I can't make a comparison.

6 Q. Do you know now?

7 A. I know now by looking at all these reports.

8 Q. And what is your understanding of how much
9 Mr. Kalaga paid Pablo?

10 MR. DANIELS: Object to the form.

11 A. I don't know the exact dollar amount, but I
12 read the whole thing about some properties that they
13 have together and stuff like that.

14 Q. (BY MR. FRIDMAN) Do you have an understanding
15 that Mr. Kalaga paid Pablo millions of dollars?

16 MR. DANIELS: Objection. Form. Objection
17 speculation.

18 MR. FRIDMAN: Just asking what he
19 understands about the litigation. Not asking him to
20 speculate.

21 A. I don't know the exact dollar amount.

22 Q. (BY MR. FRIDMAN) All right. Let's stick with
23 Exhibit 37, and I'm going to take you to Interrogatory
24 No. 2.

25 Interrogatory No. 2 asked you to identify

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1 all persons with knowledge, including current and former
2 OnePoint, Inc. officers, directors, and employees about
3 OnePoint, Inc. having Pablo D'Agostino on its payroll as
4 an employee.

5 Do you recall that question?

6 A. Yes.

7 Q. (BY MR. FRIDMAN) And in response, you
8 identified David Headrick, right?

9 A. Yes.

10 Q. Who's David Headrick?

11 A. He was one of my employees.

12 Q. And what was his position?

13 A. Project manager.

14 Q. Between what years did he work for you?

15 A. I don't know the exact years, but he was there
16 roughly 2007 to 2017, '18.

17 Q. In response -- go ahead and finish.

18 MR. DANIELS: He didn't say anything. He
19 was finished.

20 A. I'm finished.

21 Q. (BY MR. FRIDMAN) In response to Interrogatory
22 No. 2, you wrote (as read): "Sometime well after
23 Mr. D'Agostino was taken off the OnePoint payroll,
24 Mr. Headrick learned D'Agostino was once on the
25 payroll."

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1 Do you see that?

2 A. Yeah, I see that.

3 Q. Did you listen in on the deposition of
4 Mr. Headrick that occurred last week?

5 A. I saw bits and pieces of it, not the entire
6 deposition.

7 Q. Are you aware that Mr. Headrick denied any
8 knowledge of -- that OnePoint had Pablo D'Agostino on
9 its payroll?

10 A. That is correct.

11 Q. So why did you think that he knew about this?

12 A. Because after this lawsuit happened, as soon as
13 I was -- I -- I called David and I told him that, Hey,
14 just want to let you know there is an investigation
15 going on, and I'm -- and I'm involved, and I'm dragged
16 into it or whatever. I don't know the exact words. So
17 he just listened to the whole thing and he immediately
18 said -- he said, you know, Abraham, I've never told you
19 this, but during my time at OnePoint, sometimes I would
20 just look at the Paychex reports. And I did see Pablo's
21 name in there.

22 So the minute he told me that, I
23 immediately informed -- that's -- so I don't know why he
24 never told me while I was there. But when he told me
25 that, I let my attorneys know about it.

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1 Q. Well, first -- first -- yeah. First of all, I
2 don't want to know what you discussed with your
3 attorneys.

4 A. Okay. Thank you.

5 Q. But on -- on the first point, so was -- was
6 Mr. Headrick lying during his deposition that he did not
7 remember Pablo D'Agostino ever being on the payroll?

8 A. I'm not sure if he was lying. Maybe he did not
9 recall it, that conversation with me.

10 Q. Well, it seems like from the way you tell it,
11 it was the first thing that came to his mind, right?

12 A. I'm not sure it was the first thing but he --
13 he said, Well, that's pretty bad, and Pablo was a jerk
14 and this and that. And then he said, Oh, by the way, I
15 just want to let you know that I have seen Pablo's name
16 in the Paychex reports. But he never mentioned to -- to
17 me during his employment. He told me after his
18 employment.

19 Q. Right. I understand.

20 And approximately, when was this
21 conversation? Was it -- maybe to give you a better
22 sense, was it before or after the interview that we had
23 with you on December 4th, 2019?

24 A. Definitely after the interview.

25 Q. So it was approximately --

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1 A. I don't know exactly.

2 Q. In 2020?

3 A. Yes, in 2020 for sure.

4 Q. Was it before or after OnePoint and -- and
5 yourself got sued by Toshiba International Corporation
6 in February of 2020?

7 A. And what was that date?

8 Q. February of 2020.

9 A. Might have been April or so. I don't know the
10 exact month.

11 Q. Okay. Other than putting Pablo D'Agostino on
12 your payroll, tell me in every other instance in which
13 you provided Pablo D'Agostino with something of value.

14 A. I did sell him a -- a Ford 250 truck for a --
15 for a good price -- for a -- for a lower-than-market
16 price.

17 Q. Okay. Let me -- let me stop the screen share
18 here so we can see each other better.

19 Tell me about the truck.

20 A. I don't know the exact date, but the truck was
21 purchased in August or something. And six months later,
22 I transferred the title to his name for \$9,000. And it
23 was worth more than that.

24 Q. Was that August of 2009?

25 A. About right.

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1 Q. What do you think the market price was of the
2 truck when you transferred it to him?

3 A. Probably 20,000.

4 Q. \$20,000?

5 A. Approximately.

6 Q. Do you know how much OnePoint paid for the
7 truck?

8 A. Roughly back six months ago, about 37 or so.

9 Q. So you're applying a lot of depreciation for
10 six months; is that right?

11 A. I'm just -- I'm just coming up with some
12 numbers that -- that I think is fair.

13 Q. But was there something wrong with the truck?
14 For example, had the truck been in an accident?

15 A. Well, it was a construction truck. So it was
16 not in the best condition.

17 Q. When OnePoint purchased that truck in
18 August 2009, was that at Pablo's direction?

19 A. No. I bought it on my own.

20 Q. So tell me, how did you come to transfer that
21 truck to Pablo?

22 A. He told me to transfer the truck to -- on his
23 name.

24 Q. And you say that in -- that he paid you \$9,000?

25 A. That is correct.

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1 Q. Was that by check or in cash?

2 A. In cash.

3 Q. And what -- how -- how did you receive the
4 cash? Was it in a paper bag or a suitcase?

5 A. He just handed it to me.

6 Q. So do you have any proof that Pablo paid you
7 \$9,000 in cash for that truck?

8 A. I don't have anything now, no.

9 Q. All right. Let me -- I'm going to put another
10 exhibit on the screen.

11 Tell me, why did you transfer that truck to
12 Pablo at a below-market price?

13 A. I just wanted to get rid of that truck. We
14 already had two or three trucks at that time.

15 Q. You said that Pablo asked you for it?

16 A. He said he liked the truck, and he asked me if
17 I wanted to sell it.

18 Q. And how did you agree to give -- sell it to him
19 for, as you say, \$9,000 in cash?

20 A. That's what we both agreed upon.

21 Q. All right. I'm going to put another exhibit on
22 the screen. So this is Exhibit 37, and I'm going to do
23 a share screen. Sorry. This will be Exhibit 48. I'm
24 going to put Exhibit 48 on the screen.

25 Can you see Exhibit 48?

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1 A. Yes.

2 Q. Do you need me to zoom it in more?

3 A. Yes, please.

4 Q. Is that better?

5 A. That's better.

6 Q. All right. So once again, this is Toshiba
7 International Corporation's first set of interrogatories
8 to defendant, OnePoint, and we're going to go to Exhibit
9 C.

10 Exhibit C is a motor vehicle report, and I
11 want to check with you to see if this is the same truck
12 that you -- we are talking about right now.

13 MR. DANIELS: I think you need to zoom out.

14 Q. (BY MR. FRIDMAN) Can you see it now?

15 A. Yeah, I can see it.

16 (Simultaneous cross-talk ensues.)

17 MR. DANIELS: We have it there.

18 MR. FRIDMAN: Oh, okay.

19 THE WITNESS: I've yet to see it on the
20 screen.

21 Q. (BY MR. FRIDMAN) So you see the -- the company
22 is identified as OnePoint with the "I" -- the letter "I"
23 is missing.

24 A. Right.

25 Q. But that is the address that your company had

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1 at that time, right?

2 A. That is correct.

3 Q. And it says the original registration date was
4 August 18th of 2009?

5 A. Right.

6 Q. And the truck is identified as a 2009 Ford
7 F-250 Super Duty, right?

8 A. Right.

9 Q. And the last five digits of the vehicle
10 identification number are - -49561?

11 A. Right.

12 Q. So can we agree that this is the same truck
13 you've been talking about?

14 A. Yes.

15 Q. Then if we scroll up to the next entry in the
16 motor vehicle registration report, we see the name of a
17 new owner, Pablo H. D'Agostino.

18 Do you see that?

19 A. Yes.

20 Q. And same truck, - -49561, right?

21 A. Right.

22 Q. So this shows that the truck was, in fact,
23 transferred to Pablo D'Agostino, right?

24 A. It was the title transfer, yes.

25 Q. And it says that the base price was \$37,950 at

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1 the time of transfer.

2 A. That was the price of purchase, not at the time
3 of transfer, I think.

4 Q. That's the purchase price?

5 A. That's the base -- base price of the truck.

6 Q. All right. Well, I see that that matches up
7 with the base price on -- when OnePoint was the owner,
8 right?

9 A. Right.

10 Q. Okay. So I am going to show you another
11 exhibit now, Exhibit 50. Exhibit 50 is a composite
12 exhibit that we have put together to save time,
13 combining some research that we did at the Motor
14 Vehicles Department and some of the documents that we
15 received from OnePoint.

16 Can you see Exhibit 50 on your screen?

17 (Exhibit 50 marked.)

18 MR. DANIELS: What's the Bates number on
19 this document, Dan?

20 MR. FRIDMAN: It's TIC-129337.

21 MR. DANIELS: Okay. Thank you.

22 MR. FRIDMAN: And the last document was the
23 one that was produced by OnePoint. It's OnePoint 36609.

24 Q. (BY MR. FRIDMAN) So this is a document that we
25 received as a supplemental production from OnePoint for

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1 a -- a 2010 F-250, which appears to have a net price of
2 \$57,820.

3 What -- what does this truck have to do
4 with the truck that you transferred to Pablo D'Agostino?

5 A. Well, I -- I had this in my -- I was shopping
6 around for trucks, so I had several of these printouts.

7 Can you scroll it down a little bit? All
8 the way down to the bottom?

9 Q. Yes.

10 A. Yeah. So I was looking at trucks on different
11 websites, and this was one of the ones that I -- I had
12 it with me.

13 Q. Okay. I see the date of this printout is
14 July 27th, 2009.

15 A. Right.

16 Q. Is this the truck that you wound up buying?

17 A. I don't think so. I'm not -- I'm not sure. I
18 don't know.

19 Q. Is that your handwriting on this paper?

20 A. Yes. That is my handwriting, yes.

21 Q. All right. Then if we scroll up to the next
22 document, which is TIC-129339, we see a certificate of
23 origin for the truck that has the VIN number ending in -
24 -49561. So this is for the truck that we are talking
25 about that you gave to Pablo, right?

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1 A. If it's the same VIN -- VIN number, yes.

2 Q. Okay. Remember, we agreed it was -49561. Do
3 you see that on the screen? Can you see me pointing --

4 A. I see that on the screen, yes.

5 Q. Can you see me pointing at different parts of
6 the document on your screen?

7 A. Yes, I -- I do.

8 Q. Okay. So I scrolled up to the next document,
9 which is TIC-129335, and that shows a sales price of
10 \$46,999.

11 A. Yeah, I see that.

12 Q. And it's the same VIN number, -49561, right?

13 A. Right.

14 Q. So is it -- is it possible that that's really
15 how much the car cost?

16 A. I don't know.

17 Q. You have no records to show how much you paid
18 for the truck?

19 A. I have no records.

20 Q. But you agree with me this is an official
21 record of the Texas Department of Transportation, right?

22 A. If it says Texas Department of Transportation,
23 yes, it is an official record.

24 Q. And it says here that there was a trade-in
25 allowance of \$18,000.

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1 Did you trade in another truck to buy this?

2 A. I may have, but I don't recall.

3 Q. Well, scroll up to TIC-129337. Everything is
4 blacked out here because of Texas privacy laws, but we
5 can tell that we're talking about the same truck by
6 looking at the VIN number, which is -49561.

7 Do you see that?

8 A. Yes.

9 Q. So this appears to be the application for a
10 certificate of title for the truck when it was new with
11 16 miles on the odometer.

12 Do you see that?

13 A. Yes.

14 Q. And it says here that the sales price is
15 \$46,999.

16 Do you see that?

17 A. Yes.

18 Q. And it was a trade-in of \$18,000?

19 A. Yes.

20 Q. And they computed a net -- net taxable amount
21 of \$28,999.

22 A. Yes.

23 Q. And it's dated August 7th, 2009.

24 A. Yes.

25 Q. So it appears from this document that OnePoint

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1 paid \$46,999 for this truck, right?

2 MR. DANIELS: Object to form.

3 A. Based on this document, yes.

4 Q. (BY MR. FRIDMAN) Does that appear unreasonable
5 to you, or does it seem right?

6 A. It seemed high to me now that I -- I thought it
7 was around 30,000 or 40,000. I didn't know it was
8 46,000 -- 47,000.

9 Q. All right. So assuming that you paid \$46,999
10 for the truck, do you really think the truck was only
11 worth \$20,000 when it was transferred to
12 Pablo D'Agostino?

13 MR. DANIELS: Object to the form.

14 A. I don't know what it was worth when I
15 transferred it to him at that time.

16 Q. (BY MR. FRIDMAN) Is it reasonable to assume
17 that it was probably worth more than \$20,000?

18 MR. DANIELS: Object to the form.

19 A. I really don't know.

20 Q. (BY MR. FRIDMAN) All right. So we've been
21 going for about an hour, would you like to take a break?

22 MR. DANIELS: Yes, I would like to.

23 MR. FRIDMAN: Is that what you were going
24 to ask, Mr. Daniels?

25 MR. DANIELS: It is.

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1 MR. FRIDMAN: I -- I anticipated your --
2 your thought. All right. So let's take a -- how long?
3 Ten minutes?

4 MR. DANIELS: I don't need that long.

5 MR. FRIDMAN: All right. Seven minutes.

6 MR. DANIELS: That's fine.

7 MR. FRIDMAN: All right. Let's go off the
8 record.

9 THE VIDEOGRAPHER: This now ends Video 1 of
10 Abraham Joseph. Off the record at 10:24.

11 (A break was taken from 10:24 a.m. to
12 10:33 a.m.)

13 THE VIDEOGRAPHER: We're now back on the
14 record with Video 2 of Abraham Joseph. The time is
15 approximately 10:33.

16 Q. (BY MR. FRIDMAN) All right. So, Mr. Joseph --
17 so we've -- we've discussed that in 2007 and 2008 you
18 had Pablo D'Agostino on your payroll, right?

19 A. Yes.

20 Q. In 2009, you gave Pablo D'Agostino a truck at a
21 below market value price, right?

22 A. I didn't give it to him. I -- I sold it to him
23 for a price.

24 Q. You say you sold it to him at a below market
25 value price, right?

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1 A. Slightly below market value, yes.

2 Q. Why did you take Pablo D'Agostino off your
3 payroll in 2008?

4 A. I don't know why I did that, but I did take him
5 off.

6 Q. Was that at your decision, or was it at his
7 request?

8 A. It was my decision.

9 Q. Was it because you were uncomfortable with
10 having a Toshiba employee on your payroll?

11 A. I just didn't want him on my payroll. So I
12 took him off.

13 Q. You didn't want him on your payroll because you
14 didn't like the amount of money you had to pay him?

15 A. I just didn't want him on my payroll.

16 Q. So instead, did you find other ways to pay
17 Pablo?

18 A. No, I did not.

19 Q. Well, what about the truck in 2009? Wasn't
20 that another way to transfer something of value to
21 Pablo?

22 A. I sold the truck to Pablo.

23 Q. Right.

24 And as we've seen, the truck
25 was potentially as -- as valuable as \$47,000, right?

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1 MR. DANIELS: Object to the form.

2 A. I don't know what the value of the truck was at
3 that time.

4 Q. (BY MR. FRIDMAN) And Pablo kept sending you
5 business from Toshiba International Corporation, right?

6 A. He did not send me business. He would ask me
7 to look at projects.

8 Q. Right.

9 And as you've said, during this period of
10 time, OnePoint received around \$32 million from Toshiba
11 International Corporation, right?

12 A. If that is the number, yes.

13 Q. So that was a quid pro quo, right?

14 MR. DANIELS: Object to the form.

15 A. No, it's not.

16 We performed our work. We did good work.
17 There was no complaints, and we got paid for our work.

18 Q. (BY MR. FRIDMAN) Were there -- does OnePoint
19 have other customers?

20 A. Yes.

21 Q. And for these other customers, did you put
22 their employees on your payroll?

23 A. No.

24 Q. And for these other customers, did you sell
25 them trucks at below market value?

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1 A. I must have sold them some equipments that they
2 were interested in.

3 Q. Did you sell them at below market value?

4 A. I must have sold them at fair market value.

5 Q. And were you selling it to the company or the
6 employees of the company?

7 A. I've sold some to companies, and I've sold some
8 to employees.

9 Q. Are you proud that you had Pablo D'Agostino on
10 your payroll?

11 MR. DANIELS: Object to the form.

12 A. I don't know the answer to that.

13 Q. (BY MR. FRIDMAN) All right. Let's go back to
14 Exhibit 37. Once again, Exhibit 37 is OnePoint's
15 "Supplemental Objection and Responses to Plaintiff's
16 First Set of Interrogatories."

17 I want to take your attention to
18 Interrogatory No. 3.

19 Can you see that?

20 A. Yes.

21 Q. Interrogatory No. 3 states (as read):
22 "Identify each instance in which OnePoint, Inc. and/or
23 Abraham Joseph gave Pablo D'Agostino, Melissa
24 D'Agostino, and/or Ashley Tucker a gift. Gift includes
25 giving cash, vacations, show tickets, payment of credit

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1 card expenses, and the payment of personal expenses such
2 as the purchases reflected in the 2018 Home Depot
3 receipts attached as Exhibit B to these
4 interrogatories."

5 Do you recall answering that question?

6 A. Yes.

7 Q. So the first part of your answer you write (as
8 read): "In or about 2009, Mr. Joseph and Mr. D'Agostino
9 traveled to Las Vegas, Nevada for one, two-day trip.
10 The trip was Mr. D'Agostino's idea. OnePoint does not
11 have receipts for this client development trip. Based
12 on Mr. Joseph's recollection, the airfare, hotel, and
13 entertainment cost less than \$2,000"; is that correct?

14 A. That is correct.

15 Q. Did you pay the cost of Mr. D'Agostino's trip
16 to Las Vegas?

17 A. Yes, I did.

18 Q. Tell me how this trip came about.

19 A. He told me he wanted to see a show in Las
20 Vegas, and he told me, Why don't you arrange for that
21 trip.

22 Q. And was it just you and him that went, or did
23 other people go?

24 A. Just me and him.

25 Q. And what show did he want to see?

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1 A. The Criss Angel show.

2 Q. And why did you do this trip?

3 A. It's part of the business development. It's
4 marketing strategy. Companies take clients out for
5 golfs. So I -- I thought it was appropriate to take the
6 client out for a trip.

7 Q. Did you enjoy spending time with
8 Pablo D'Agostino?

9 A. I enjoyed the Criss Angel show.

10 Q. But not spending time with Pablo D'Agostino?

11 A. It wasn't an enjoyable time. It was just okay.

12 Q. Next, you say (as read): "Sometime in 2010 or
13 2011, Mr. D'Agostino requested that Mr. Joseph pay for a
14 trip, hotel, and airfare to San Francisco, California
15 for Mr. D'Agostino and a companion. OnePoint has no
16 records or receipts for this trip. Based on
17 Mr. Joseph's recollection, the best estimation of the
18 cost of the trip was less than \$3,000"; is that correct?

19 A. That's correct.

20 Q. Tell me how this trip that cost \$3,000 came
21 about.

22 A. He asked me to go with him for this trip to
23 California, and I -- I told him no because I -- I just
24 didn't want to go with him. So he said, Well, I'm going
25 to go with someone. Can you arrange for the tickets?

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1 And I did.

2 Q. Do you know who he took?

3 A. I have no idea.

4 Q. And why did you pay for this trip?

5 A. It was part of our marketing expense for the
6 company, and -- and we do that for clients. We take
7 them out for baseball games. So this was a way to
8 appreciate the customer.

9 Q. Do the baseball games cost \$3,000?

10 A. No, they don't.

11 Q. Are they less?

12 A. Yes.

13 Q. How much does a baseball game cost?

14 A. Well, the whole thing might be 4-, \$500 with
15 everything; parking, food. Well, it depends on what
16 seats we -- it depends on the seats I guess. Maybe
17 1,000 bucks.

18 Q. Did you pay this trip for Pablo D'Agostino
19 because he asked you to?

20 A. He asked me for the trip -- to join him on the
21 trip. I did not join him, but it was part of our
22 business development program.

23 Q. Okay. So you call -- you don't call this a
24 bribe?

25 A. Oh, absolutely not.

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1 Q. You call this business development?

2 A. Correct.

3 Q. Was having Pablo D'Agostino on your payroll
4 in 2007 and 2008 business development?

5 A. This was purely what TIC and Pablo wanted, and
6 I complied with their rules.

7 Q. Well, you've told me that no one other than
8 Pablo D'Agostino at TIC told you to put him on your
9 payroll, right?

10 A. He's the one -- he was the face of Toshiba, so
11 I listened to him.

12 [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

17 Q. Is it a bribe?

18 A. It's not a bribe.

19 Q. Was it a quid pro quo?

20 A. No.

21 Q. All right. Let's scroll a little further down
22 in your answer here. You say at the end of
23 Interrogatory No. 3 (as read): "Off and on,
24 Mr. D'Agostino also demanded cash from Mr. Joseph.
25 Mr. D'Agostino threatened to stop sending TIC business

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1 to OnePoint if Mr. Joseph did not provide him with
2 spending money. As a result, OnePoint had to provide
3 Mr. D'Agostino cash payments."

4 Do you see that?

5 A. Yes, I see that.

6 Q. Is that correct?

7 A. That is correct.

8 Q. Tell me how much cash did you provide to
9 Mr. D'Agostino off and on.

10 A. I don't have the exact dollar amount.

11 Q. Give me your best recollection.

12 MR. DANIELS: Object to the form.

13 A. It could be \$400 at one time or it could be
14 \$1,000 at another time. It could be \$1,500 at another
15 time, but I don't know the exact amount.

16 Q. (BY MR. FRIDMAN) And you say off and on you
17 provided this cash of between 300 and \$1,500, right?

18 A. In that range. I don't know the exact number.

19 Q. Can you tell me the period of time in which you
20 provided him with this cash?

21 A. It could have been from 2010, maybe, or so.

22 Q. Until when?

23 A. Maybe until 2017, '18 -- '17.

24 Q. When was the last time you remember giving
25 Pablo D'Agostino cash?

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1 A. I don't remember the exact date.

2 Q. Was it in 2019?

3 A. Possible.

4 Q. It's possible you gave him cash in 2019?

5 A. Yes.

6 Q. How much cash is it possible you gave him in
7 2019?

8 A. I don't know the exact amount.

9 Q. Is it in the range of \$300 to \$1,500 or more?

10 A. It could be more.

11 Q. Okay. How much more?

12 MR. DANIELS: Object to form.

13 A. It could be \$2,000.

14 Q. (BY MR. FRIDMAN) Okay. So you think you gave
15 him \$2,000 in 2019?

16 MR. DANIELS: Objection --

17 A. No. I don't know the entire amount given to
18 him in 2019. I don't have a grand total per se.

19 Q. (BY MR. FRIDMAN) Was it multiple payments or
20 one single payment?

21 A. It was multiple.

22 Q. How would you deliver cash to Pablo D'Agostino
23 in 2019?

24 A. I may have given it to him either at the TIC
25 property or at his -- at his residence.

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1 Q. You would bring cash to TIC's property and give
2 it to Pablo in -- at TIC; is that right?

3 A. I've done it on a few occasions, yes.

4 Q. Would you do that in his office?

5 A. That is correct.

6 Q. With his door closed?

7 A. His door was open.

8 Q. And would the -- the cash be concealed in any
9 way --

10 A. No.

11 Q. -- or were you giving cash out in the open?

12 A. It would be in an envelope.

13 Q. You would give it to him in an envelope?

14 A. Correct.

15 Q. And what would he say to you?

16 A. He -- he wouldn't say anything.

17 Q. Would he thank you?

18 A. No. He didn't -- he didn't -- he never said
19 thank you.

20 Q. And you would also visit Pablo D'Agostino at
21 his home?

22 A. I wouldn't visit him at his home. I would meet
23 him in his -- in the lobby area of his building.

24 Q. Which building is it?

25 A. The -- the Bancroft Building.

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1 Q. When he lived at Bancroft --

2 A. That's correct.

3 Q. -- you would meet in the lobby of the Bancroft
4 Building and give him an envelope of cash; is that
5 right?

6 A. Correct.

7 Q. In 2019, right?

8 A. No. 2019, he was -- it was in Arabella.

9 Q. Okay. Did you ever meet -- meet him in the
10 lobby of Arabella and give him cash?

11 A. I may have met him once or twice in the
12 Arabella lobby, yes.

13 Q. And that was in 2019?

14 A. Yeah. 2019, yes.

15 Q. And how -- how much cash did you give him the
16 time that you remember meeting him at Arabella?

17 A. I don't know the exact total.

18 Q. Was it between \$300 and \$1500, or more?

19 A. Sometimes it was more, sometimes it was less.

20 Q. Up to \$2,000 in cash?

21 A. I don't remember the exact dollar amount.

22 Q. Was it ever more than \$2,000 in cash?

23 A. Possible.

24 Q. Okay. What's the largest amount of cash you
25 remember giving to Pablo D'Agostino?

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1 A. I think up to \$4,000.

2 Q. \$4,000 at one time?

3 A. Yes.

4 Q. When did you give Pablo D'Agostino \$4,000 in
5 cash?

6 A. I don't know the exact date.

7 Q. Can you give me your best recollection of when
8 that was?

9 A. It would be 2018, '19.

10 Q. So in 2018 or '19, you gave Pablo D'Agostino
11 \$4,000 in cash at one time --

12 A. Correct.

13 Q. -- correct?

14 And where did you do this?

15 A. I believe it was in his building -- his
16 residence building in the lobby.

17 Q. In the lobby of his residence, is that --

18 A. Correct.

19 Q. -- what you're saying?

20 A. Correct.

21 Q. And which lobby was it? Bancroft or Arabella?

22 A. I believe it was Bancroft.

23 Q. You recall it was Bancroft?

24 A. Yes.

25 Q. Did anyone ever witness you give

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1 Pablo D'Agostino this cash?

2 A. I'm not aware of it. No. No one -- no, one
3 saw it, no.

4 Q. Did Ashley Tucker ever see you give
5 Pablo D'Agostino cash?

6 A. No, she did not.

7 Q. Was Pablo D'Agostino alone when you gave him
8 cash?

9 A. Yes, correct.

10 Q. Every time?

11 A. Every time.

12 Q. So why did you give Pablo D'Agostino \$4,000 in
13 cash in the lobby of the Bancroft in 2018 or 2019?

14 A. Because he demanded it. And we wanted to do --
15 to continue to work at Toshiba in --

16 Q. So it was a quid pro quo?

17 A. No. It was our way of staying in Toshiba.

18 Q. Is that a bribe?

19 A. It's not a bribe.

20 Q. Did you continue doing business with Toshiba
21 after you paid him \$4,000 in cash in 2018 or 2019?

22 A. Yes, we were still there.

23 Q. In fact, you continued doing business with
24 Toshiba until Pablo D'Agostino's termination in
25 September 2019, right?

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1 A. Right.

2 Q. After Pablo was terminated, you stopped doing
3 business with Toshiba, right?

4 A. I didn't stop. Toshiba did not call me back.

5 Q. Toshiba stopped sending you business after
6 Pablo D'Agostino was terminated, right?

7 A. I never heard back from Toshiba, so I did not
8 go there.

9 Q. And during this period of time, 2018 and 2019,
10 what was the primary business that you had with Toshiba?

11 A. It was mostly with the journeymen electricians
12 and then some repair works throughout the -- like, some
13 repair works in the complex. Maintenance-type
14 activities.

15 Q. So with the journeymen electricians, how much
16 business was OnePoint doing, approximately per year,
17 with Toshiba in 2018 and 2019?

18 A. I don't know the exact amount.

19 Q. Is it in the hundreds of thousands of dollars?

20 A. I really don't know, but -- I don't know right
21 now.

22 Q. Okay. Is it \$1 million?

23 A. No, it's not \$1 million.

24 Q. So less than \$1 million?

25 A. Definitely less than \$1 million in '18 and '19,

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1 yes.

2 Q. More than \$200,000?

3 A. Trying to think. We were billing them every
4 two weeks, so I don't -- I don't want to do quick math
5 in my head. So I really don't have the numbers in front
6 of me, so I cannot give you an exact number.

7 Q. Okay. But the business was important enough to
8 you that you gave Pablo D'Agostino \$4,000 in cash,
9 right?

10 A. I wanted to stay in Toshiba and continue to
11 provide them with service. Yes, I wanted to be there.

12 Q. Right. You wanted to continue to receive those
13 payments every other week from Toshiba?

14 A. I wanted to continue to receive payments for
15 services that we rendered to them and to retain us over
16 there in Toshiba.

17 Q. But how many times a year did you give
18 Pablo D'Agostino cash?

19 A. I don't know the exact number of times.

20 Q. Well, let's break this up. Let's talk about
21 2017, 2018, and 2019.

22 In those years, how often would you give
23 Pablo D'Agostino an envelope of cash?

24 A. I don't know the exact duration, but...

25 Q. Please give me your best estimate.

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1 A. What's the question, again?

2 Q. In 2017, 2018, and 2019, how often did you give
3 Pablo D'Agostino cash?

4 A. About 30, 40 -- 30 times, maybe, in three
5 years.

6 Q. So an average of ten times a year?

7 A. Sometimes more, sometimes less.

8 Q. Was it every time you saw Pablo you gave him
9 cash?

10 A. It's not each and every time I saw him, but I
11 had to see him to give it to him.

12 Q. More often than not, when you went to see
13 Pablo, you also had an envelope of cash for him?

14 A. Can you repeat the question, please?

15 Q. Yes.

16 Is it fair to say that more often than not,
17 when you went to see Pablo D'Agostino in 2017, 2018, and
18 2019, you had an envelope of cash for him?

19 A. Not each and every time I went to see him, no.

20 Q. Right.

21 So is it greater than 50 percent of the
22 time that you went to see him you had an envelope of
23 cash?

24 A. I -- I don't know whether it was 50 percent or
25 30 percent. I don't know, so...

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1 Q. All right. Where did the cash come from?

2 A. I would withdraw it from my bank.

3 Q. From your personal bank account or from
4 OnePoint's bank account?

5	A. My company account.
---	------------------------

6 [REDACTED]

[illegible]

	[REDACTED]	[REDACTED]
--	------------	------------

[illegible]

[REDACTED] [REDACTED]

[REDACTED]

25

[illegible][illegible]

1

1

1



18

24

25

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1 Q. Are there other clients that you gave envelopes
2 of cash to?

3 A. No, I did not --

4 Q. Pablo --

5 A. -- except TIC.

6 Q. Pablo was the only person that you gave
7 envelopes of cash to?

8 A. That is correct.

9 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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Veritext Legal Solutions

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1

[REDACTED]

2

Q. Who is in charge of OnePoint's accounting

3

books?

4

A. It would be my CPA.

5

Q. Who is your CPA?

6

A. I believe I said that earlier, but I can say it

7

again if you want to.

8

Q. Let's see. Jay Ojha?

9

A. That is correct.

10

Q. O-J-H-A?

11

A. That is correct.

12

Q. Does Mr. Ojha know about you paying

13

Pablo D'Agostino in cash?

14

A. No, he does not.

15

Q. You've never told your accountants about that?

16

A. No, I did not.

17

Q. Does Mr. Ojha also provide bookkeeping services

18

for OnePoint?

19

A. I believe he does.

20

Q. Or do you have a bookkeeper that works for you

21

in-house?

22

A. We have an in-house person, but she's not

23

qualified. So I think Ojha does most of the -- the

24

accounting-related work.

25

Q. Who is your in-house person?

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1 A. Anne.

2 Q. Who is Anne?

3 A. She is my bookkeeper in the office.

4 Q. Okay.

5 A. And -- and she's my sister.

6 Q. What is Anne's full name?

7 A. Anne Kurian.

8 Q. And Anne Kurian is your sister?

9 A. Yes.

10 Q. And does she function as a bookkeeper for you?

11 A. She doesn't have the formal education, but she
12 does -- she does the -- the numbers, the invoicing, and
13 all that, yes.

14 Q. What bookkeeping software do you use?

15 A. QuickBooks.

16 Q. And how long have you been using QuickBooks?

17 A. I believe we've had it since 2010, I believe.

18 Q. Do you have QuickBooks records going back to
19 2010?

20 A. We may have it, yes. I -- I don't get into
21 QuickBooks but -- I'm -- I'm not sure, but, yes. I
22 don't know.

23 Q. So QuickBooks is not your domain. It is the
24 domain of Anne Kurian or Mr. Ojha?

25 A. That is correct.

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1 Q. Does Anne Kurian know that you were paying
2 Pablo D'Agostino cash?

3 A. No, she does not know that.

4 Q. Does she know that now?

5 A. Yes, she does.

6 Q. When did she find out?

7 A. After this. After I got sued.

8 Q. You had a conversation with her?

9 A. Yes, I did.

10 Q. And what did you tell her?

11 A. I told her about all the allegations on the
12 lawsuit.

13 Q. Did you tell her that they were true?

14 MR. DANIELS: Object to the form.

15 A. I told her portions of it was true.

16 Q. (BY MR. FRIDMAN) Which portions of the
17 allegations in the complaint are true?

18 MR. DANIELS: Object to the form.

19 Don't answer that.

20 Too broad. If you want to ask him specific
21 allegation by allegation, but you -- I'm not going to
22 have him testify from memory to a 40-plus page
23 petition -- complaint.

24 MR. FRIDMAN: Are you finished,
25 Mr. Daniels?

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1 MR. DANIELS: Yeah.

2 Q. (BY MR. FRIDMAN) All right. Mr. Joseph,
3 please answer the question.

4 MR. DANIELS: No. He's been instructed not
5 to answer the question, Counsel. It isn't a fair
6 question.

7 MR. FRIDMAN: It is. I -- I disagree with
8 you. It is not --

9 MR. DANIELS: If you're going to ask him
10 allegation by allegation, you can do so.

11 MR. FRIDMAN: Well --

12 MR. DANIELS: I told you you can't ask him
13 the topic. I'm saying I'm not going to have him testify
14 from memory and by narrative.

15 Q. (BY MR. FRIDMAN) Do you remember your
16 conversation with your sister, Mr. Joseph?

17 A. Briefly, yes.

18 Q. Okay. What do you remember about your
19 conversation with your sister?

20 A. I told her there's an investigation going on by
21 Toshiba, and I'm getting sued.

22 Q. And you told her about the allegations in the
23 lawsuit, right?

24 A. I mentioned most of it to her, yes. I did not
25 show the --

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1 Q. What about --

2 A. Go ahead.

3 Q. No, I want you to finish.

4 A. I said I did not show the actual document. I
5 -- I mentioned, I guess, most of it, not the details of
6 it.

7 Q. What allegations did you mention to her?

8 A. I did mention to her about the -- about the
9 bribery, or whatever y'all call it in your thing, about
10 paying cash, and about the trips to Las Vegas, the --
11 the truck, the -- the W-2s, the payroll thing. That's
12 all I can remember for right now.

13 Q. Did you tell her about the fake bids?

14 A. I believe I did. Yes, I did.

15 Q. You told her that -- that you had created bids
16 in the names of other companies?

17 A. Yes, I did.

18 Q. She didn't know about that before?

19 A. She did not know about it.

20 Q. And you told her about payments that you had
21 made to Pablo?

22 A. I didn't tell her exact payments. I said I
23 have made some payments to Pablo, yes.

24 Q. What was her reaction?

25 A. I -- I don't recall her reaction, but -- I

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1 don't recall her reaction.

2 Q. Was she upset?

3 A. I -- I didn't see it on her face, but I'm -- I
4 don't know what her reaction internally was. I can't
5 speak for her.

6 Q. All right. What did she say --

7 A. But obviously, not -- she was not excited, I
8 guess, so...

9 Q. Was she shocked or was she not surprised about
10 this at all?

11 A. She was -- she was unhappy to hear that I'm --
12 I'm being sued.

13 Q. Was she unhappy with the fake bids and the
14 payments to Pablo?

15 A. She did not tell me that specifically, but she
16 was unhappy about the fact that I'm being sued.

17 Q. Other than your sister Anne Kurian, who else
18 did you discuss this lawsuit with apart from your
19 lawyers, as well?

20 A. I did talk to Jay Atkins. I talked to Sam
21 Kurian. I spoke to Kommy Azarpour. I mentioned it to
22 my wife and Brad Jackson.

23 Q. You had these conversations with these people
24 you identified after you got sued?

25 A. I believe in some cases. Some of them I spoke

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1 to them after the December meeting at TIC.

2 Q. Okay. Tell me about your conversation with
3 Jay Atkins.

4 A. Actually, he was the one who called me. He
5 called me and he said that there was a private
6 investigator who showed up at his house, and they said
7 it was something regarding Toshiba. So he called me,
8 and that's when I told him that there is an ongoing
9 investigation going on.

10 Q. Did you tell Mr. Atkins that you had created
11 bids in the name of his company?

12 A. Yes, I did tell him that.

13 Q. And that it was done without his knowledge?

14 A. I did tell him that, yes.

15 Q. That's what you did, right?

16 A. Yes, I did.

17 Q. And the name of Mr. Atkin's company is A & A --
18 sorry, the Atkins Group, right?

19 A. That is correct.

20 Q. And what did Mr. Atkins tell you?

21 A. He was not happy about the fact that the PI
22 showed at his house while he was not in the house. So
23 he was not happy about it.

24 Q. Was he upset that you had created bids for
25 Toshiba International Corporation in the name of his

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1 company without his knowledge?

2 A. I'm sure he was upset, but I didn't see his
3 facial reaction to judge that. He was on the phone
4 talking to me.

5 Q. Anything else you discussed with Mr. Atkins?

6 A. No, that was it.

7 Q. Did you apologize to him?

8 A. I don't recall apologizing to him. I did
9 apologize to Kommy.

10 Q. Kommy Azarpour?

11 A. Yes, I did.

12 Q. Okay. What about Sam Kurian. What --

13 A. I --

14 Q. Tell me about the conversation with Sam Kurian.

15 A. I told him that I had used his company name as
16 complementary bids, and I -- and I signed his signature.

17 Q. What's the name of Sam Kurian's company?

18 A. Millenium Enterprise, Millenium Construction.

19 Q. Could it be Millenium Performance?

20 A. I don't know exactly, but I have to look.

21 Q. Okay. And did you make these complementary
22 bids without Sam Kurian's knowledge?

23 A. Yes.

24 Q. Did you apologize to Sam Kurian?

25 A. I don't think so.

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1 Q. Did you explain to him why you did those bids
2 in his name?

3 A. No. I didn't get into the details.

4 Q. Is Sam Kurian related to your sister Anne
5 Kurian?

6 A. Yes.

7 Q. How are they related?

8 A. That's her husband.

9 Q. So Sam Kurian is your brother-in-law?

10 A. Correct.

11 Q. And what do you mean by complementary bids?

12 A. Pablo requested us -- requested me rather, and
13 he -- on some of the bids, he would say, get me two
14 other bids. I don't care where you get it from. Just
15 get me two bids and -- and the number should be higher
16 than yours.

17 Q. So you received this instruction from Pablo?

18 A. Yes.

19 Q. It wasn't your idea?

20 A. It's not my idea.

21 Q. He told you to get him two other bids?

22 A. Yes.

23 Q. Did you tell him that you were going to do the
24 bids yourself?

25 A. No, I did not.

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1 Q. Did Pablo know that you were providing bids in
2 the names of other companies?

3 A. I don't think he knew that I was the one
4 preparing it.

5 Q. Okay. How -- but you would send them to him,
6 right?

7 A. That is correct.

8 Q. How did you send him those bids?

9 A. I would hand-deliver it to him.

10 Q. Along with OnePoint's bid?

11 A. Maybe at different times, whenever -- whenever
12 I prepared it. Not all three at the same time.

13 Q. Would you mail it to him?

14 A. I would hand-carry it to him. I would -- I
15 would not mail it to him.

16 Q. You would hand-carry it to him and say, here
17 Pablo, here's a bid from Millenium Performance?

18 A. Correct.

19 Q. So Pablo knew that he was getting those
20 complementary bids from you?

21 A. I don't know if he knew whether I was preparing
22 it or if I was seeking it directly from them.

23 Q. But he knew that you were obtaining, for him,
24 bids in the names of other companies at a higher price
25 than your bid?

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1 A. That is correct.

2 Q. And why did they have to be at a higher price
3 than what you bid?

4 A. That I would get the job.

5 Q. Right. That's right.

6 A. Right.

7 Q. You understood that he had to present to
8 Toshiba management multiple bids for a project, right?

9 A. I'm -- I'm assuming so, yes. I'm -- I'm not
10 sure what their internal processing is for bids.

11 Q. Well, I'm asking you about your understanding,
12 what you -- what you thought at the time.

13 A. My understanding is, yeah, they probably
14 required one or two other bids. Not on each and every
15 project but on some projects.

16 Q. The more expensive ones?

17 A. I would think generally as a rule, yes.

18 Q. So you understood that these bids that you were
19 getting for Pablo at prices higher than yours were to
20 fool Toshiba management into thinking that there had
21 been a competitive bid process, right?

22 A. I gave Pablo what he requested. He told me to
23 get two other complementary bids, and I gave it to him.
24 How he used it, I -- I really don't know about their
25 internal decision-making process.

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1 Q. Did you ever lose a bid to one of the
2 complementary bidders that you provided to Pablo?

3 A. I don't recall. But there were several that
4 did not even materialize -- they decided not to do it.

5 Q. Right. For the ones that they decided to do
6 that you submitted a complementary bid, did you ever
7 lose?

8 A. I don't think so.

9 Q. Were you uncomfortable providing these bids?

10 A. I thought it was strange because none of my
11 other clients have ever asked me to do this. But then I
12 thought this might be the TIC's -- I don't know. I -- I
13 was surprised, yes.

14 Q. Do you know what the term "bid rigging" means?

15 A. Not really.

16 Q. Have you ever heard that term before?

17 A. I've heard it after this lawsuit. I -- I have
18 heard it in passing, yes.

19 Q. What is your understanding of what bid rigging
20 is?

21 MR. DANIELS: Objection. Form.

22 A. I don't know the exact meaning, so I'm not
23 going to -- I can't tell you what exactly it means.

24 Q. (BY MR. FRIDMAN) Do you understand what fake
25 bids are?

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1 MR. DANIELS: Objection. Form.

2 A. I don't know the exact definition of a fake
3 bid.

4 Q. (BY MR. FRIDMAN) Were the complementary bids
5 that you described coming from the Atkins Group or
6 Millenium -- were those real bids or fake bids?

7 MR. DANIELS: Objection. Form.

8 A. They were -- they were bids. I don't know if I
9 would classify them as complementary or fake.

10 Q. (BY MR. FRIDMAN) Well, they were bids to -- at
11 a higher price than OnePoint's bids, right?

12 A. That's correct.

13 Q. And they were designed to allow OnePoint to be
14 the lowest bidder, right?

15 A. I'm not sure if it was designed. They asked me
16 for two more bids at a slightly higher price, and I
17 complied with their requirements.

18 Q. When you say "their," do you mean
19 Pablo D'Agostino?

20 A. To me, TIC and Pablo is the same. He is the --
21 he is the officer of the company, and I -- they are the
22 same to me.

23 Q. Did you ever discuss your complementary bids
24 with anyone at TIC other than Pablo D'Agostino?

25 A. No, I did not.

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1 Q. Why not?

2 A. I -- I just assumed that this is the norm for
3 TIC, and I just continued to comply with their
4 requirements.

5 Q. Have you ever heard of any other company asking
6 for complementary bids prepared by one of the bidders?

7 A. Aside from TIC, no other companies I've heard
8 that's -- do that.

9 Q. So did you ever complain to Pablo D'Agostino's
10 supervisor that Pablo was asking you to submit bids in
11 the names of other companies at higher prices?

12 A. No, I did not.

13 Q. Did you ever complain to the president of
14 Toshiba International Corporation?

15 A. No, I did not.

16 Q. Why did you keep it a secret?

17 A. It was not a secret. Pablo made it very, very
18 clear that no one goes past him. He is very adamant
19 about us talking to -- to his immediate bosses, forget
20 about talking to the president. So that was his
21 requirement -- that you don't go past me. I am -- I am
22 the face of Toshiba, and you deal with me.

23 Q. So were you concerned that if you went past
24 Pablo, you might stop doing business with TIC?

25 A. I just didn't want to rock the boat. If that

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1 was -- that's what he told me to do, I followed his
2 instruction. He said to not talk with anybody else.
3 Not -- he was very protective about us -- anybody
4 talking to anybody above him.

5 Q. Tell me the process you followed to prepare
6 these bids -- or complementary bids, as you call them --
7 from the Atkins Group and Millenium.

8 A. Well, I would first walk the project. I would
9 look at the scope of work. I would prepare my bid
10 first. And in their cases, I would -- I would make up a
11 -- a Word document and put in the information that's put
12 in, into that project and give it to him.

13 Q. So you developed a template for the Atkins
14 Group and Millenium?

15 A. It was just something that I just made on -- on
16 a Word document, yes.

17 Q. And what -- what computer did you use to make
18 these documents?

19 A. My personal computer, I guess.

20 Q. What is that?

21 A. The -- the letterhead -- well, I take that
22 back. The letterhead -- in some -- some cases, I just
23 did it on the Word document. In some cases, I actually
24 went to a printing place, and I got them to print me a
25 letterhead.

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1 Q. You got them to print you a letterhead?

2 A. Correct.

3 Q. What printing place would you go to?

4 A. I don't recall where it was. It could be --

5 Q. So --

6 A. -- FastSigns -- FastSigns or Signarama.

7 Q. Do you have -- do you still have these Word
8 documents?

9 A. No, I don't.

10 Q. Why not?

11 A. Well, the Word documents was strictly the --
12 the scope of work, which I would just print it onto
13 the -- onto the letterhead.

14 Q. And how would you figure out what higher price
15 to put on the letterhead?

16 A. I would just come up with a random
17 percentage -- 10, 15 percent, more, 20 percent.

18 MR. FRIDMAN: So we've been going for about
19 another hour. Do -- do you want to take a break or keep
20 going?

21 MR. DANIELS: It's lunchtime where some of
22 you guys are. What do you want to do? We're going to
23 just have lunch brought in up here so we can kind of
24 break whenever, but -- I mean -- I think we're good to
25 go for at least another 15 or 20 minutes if you want to

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1 do that.

2 MR. FRIDMAN: All right. That's fine. We
3 -- we can keep going.

4 MR. DANIELS: Why don't we go until 12:45
5 your time, 11:45 here --

6 MR. FRIDMAN: All right.

7 MR. DANIELS: -- and break then.

8 Q. (BY MR. FRIDMAN) All right. So, Mr. Joseph,
9 you mentioned that you would hand-deliver these
10 complementary bids from the Atkins Group and Millenium
11 to Pablo, right?

12 A. Yes.

13 Q. Why wouldn't you email them to him?

14 A. Because he wanted me to hand-deliver it to him.

15 Q. Were those his instructions?

16 A. That is correct.

17 Q. And what was your understanding of why he
18 wanted you to hand-deliver them to him?

19 A. I have no idea what his understanding was.

20 Q. I'm asking for your understanding.

21 Why did you think he wanted you to
22 hand-deliver them and not give him -- not email it to
23 him?

24 A. I don't know.

25 Q. Did you think that it was so that there would

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1 not be an electronic trail that these complementary bids
2 were coming from you?

3 A. I don't know.

4 Q. I'm asking you if -- if you thought that. Is
5 that what you thought?

6 A. If I thought, that would be speculation.

7 Q. Well, not -- not if it's what you thought. I'm
8 only asking what you thought at the time.

9 What did -- why did you think Pablo asked
10 you to hand-deliver them instead of emailing it to him?

11 A. I really don't know.

12 Q. You didn't think about it at all?

13 A. I didn't think about it.

14 Q. Did you think that it was probably better that
15 way for you and Pablo so that there wouldn't be an
16 electronic mail trail that you had sent these documents
17 to Pablo?

18 MR. DANIELS: Objection. Form.

19 I'm sorry. Madame Court Reporter, I
20 objected to that question.

21 Q. (BY MR. FRIDMAN) You can answer.

22 MR. DANIELS: Yeah, you can answer.

23 A. He asked me to hand-deliver it, and I
24 hand-delivered it to him.

25 Q. (BY MR. FRIDMAN) All right. Was there

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1 anything else about the conversation with Sam Kurian
2 about the lawsuit that you remember?

3 A. Not really.

4 Q. Was he disappointed by what you told him?

5 A. I believe so. But I couldn't -- I -- I don't
6 know what was going on through his mind.

7 Q. Did you apologize to him?

8 A. No, I did not.

9 Q. Did Sam Kurian have any knowledge about what
10 you were doing -- using the name of his company in
11 preparing complementary bids for Toshiba?

12 A. No, he did not.

13 Q. You also mentioned that you spoke to Kommy
14 Azarpour about this lawsuit, right?

15 A. Right.

16 Q. Tell me about your conversation with Mr.
17 Azarpour.

18 A. I told him about the lawsuit and the meetings
19 that we had in December. And I -- I did tell him that I
20 was sorry for what I did, and he was obviously not
21 happy. And he said you shouldn't have done this thing.

22 Q. And what did you tell him that you did?

23 A. I told him I created fake bids on his company
24 letterhead.

25 Q. And what company's letterhead did you use to

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1 create these fake bids?

2 A. In his case, it was A & A Premier.

3 Q. And how did Mr. Azarpour react to you telling
4 him this?

5 A. He was disappointed.

6 Q. Was he mad at you?

7 A. He was disappointed.

8 Q. Did you tell Mr. Azarpour how many fake bids
9 you created in the name of A & A Premier Builders?

10 A. I don't recall telling him that.

11 Q. Do you recall how many fake bids you created in
12 the name of A & A Premier Builders that you submitted to
13 Pablo D'Agostino?

14 A. I don't recall that number.

15 Q. More than ten?

16 A. Yes.

17 Q. More than 20?

18 A. I don't know.

19 Q. 30?

20 A. I really don't know.

21 Q. And for A & A Premier Builders, did you use the
22 same method that you described for Millenium and the
23 Atkins Group?

24 A. Yes.

25 Q. You had a template in Word?

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1 A. I didn't have a template in Word, I had a
2 letterhead that I got printed. And I would type it on
3 Word and then print it on the letterhead.

4 Q. Where did you get the letterhead printed?

5 A. I don't recall from where I did it.

6 Q. Does Mr. Azarpour have any other companies?

7 A. Yes, he does.

8 Q. What -- what are Mr. Azarpour's other
9 companies?

10 A. It's ERC.

11 Q. What is ERC?

12 A. Environmental Resource Consultant. It's an
13 abatement company.

14 Q. What is an abatement company?

15 A. They do asbestos abatement or any environmental
16 issues in industrial buildings.

17 Q. Did you create fake bids in the name of ERC?

18 A. Yes, I did.

19 Q. How many fake bids did you create in the name
20 of ERC?

21 A. No more than two or three.

22 Q. Did you tell Mr. Azarpour that you had done
23 that?

24 A. Yes, I did.

25 Q. So so far, we have four companies that you have

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1 told us you created fake bids for, right?

2 A. Correct.

3 Q. Are there any others?

4 A. None that I recall.

5 Q. You said you spoke to Brad Jackson as well,
6 right?

7 A. Yes.

8 Q. Who is Brad Jackson?

9 A. He's the owner of Electrical & Mechanical
10 Solutions.

11 Q. What is Electrical & Mechanical Solutions?

12 A. It's an electrical company.

13 Q. Do they also go by the initials "EMS"?

14 A. Correct.

15 Q. And what relationship do you have with Brad
16 Jackson?

17 A. I've used him for electrical work, and I've
18 also used him to supply me with journeymen electricians.

19 Q. Did you use him to provide you with journeymen
20 electricians for projects at TIC?

21 A. I believe so. Maybe on 1 or 2 project but
22 mostly for the -- for the journeymen electrician.

23 Q. What is the distinction?

24 A. Well, if it's a project, then it's a turnkey
25 project that involves the -- the construction, supplying

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1 the materials, supplying the labor, supplying all the
2 equipments. It's a whole package. Whereas supplying
3 labor would be I'm just supplying them labor, and then
4 TIC uses them at their discretion.

5 Q. I understand.

6 Tell me about your conversation with
7 Brad Jackson.

8 A. I told him about the investigation and about
9 the -- the meeting with you in December, and I told him
10 I am -- I'm not worried about it because you did good
11 work for us. You supplied us the labor. And I told him
12 that -- that Pablo is being sued, and I was not sued at
13 that point.

14 Q. Were you concerned that you were going to be
15 sued?

16 A. I wasn't thinking about that at that time.

17 Q. So why did you reach out to him to talk about
18 the lawsuit against Pablo?

19 A. If I'm not mistaken, he -- he called me to tell
20 me that -- that Pat Medacki [phonetic] called him, and
21 that's what initiated the conversation. Pat Medacki
22 called him, and then Pat directed the phone to you, and
23 you'd started questioning him, and then he said that,
24 I'm working under OnePoint, and I'm going to be talking
25 to OnePoint. I -- I believe, so he -- he called me, and

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1 that's when this whole conversation started.

2 Q. I see.

3 Did you talk to him about how much you were
4 billing Toshiba for journeymen electricians that he
5 provided?

6 A. No. I did not tell him the number.

7 Q. Did you talk to him about the fake bids?

8 A. No.

9 Q. Did you ever create any fake bids from
10 Brad Jackson?

11 A. No.

12 Q. Or EMS?

13 A. No.

14 Q. All right. Is there anyone else that you've
15 discussed this lawsuit with, other than your lawyers and
16 your wife?

17 A. I mentioned it to my brother.

18 Q. What is your brother's name?

19 A. Reggie Joseph.

20 Q. Okay. Who else?

21 A. Well, obviously, Millenium and Jay -- I don't
22 know if Jay Atkins know about it. I haven't talked
23 to -- Kommy obviously knows about it now that he was
24 deposed.

25 Q. Right. We've talked about Kommy.

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1 Did you also talk to his business partner,
2 Kambiz Moayedi?

3 A. I did not.

4 Q. All right. So you spoke to Reggie Joseph.
5 Anyone else?

6 A. I'm trying to think.

7 Q. Did you ever talk to Pablo?

8 A. No. He -- I think he was dead by the time I
9 got sued, I think. I did talk to him after he was fired
10 from them.

11 Q. Okay. All right. So on the question of who
12 did you talk to about the lawsuit against your --
13 yourself, who else?

14 A. I talked to Anne about it, about the lawsuit.

15 Q. Uh-huh.

16 A. And my office staff -- they have a rough idea
17 that something is going on. So there's two employees,
18 they know that I'm going through this thing.

19 Q. How many people do you have working for you
20 right now?

21 A. In the office, there is just three people.

22 Q. And do you have any other direct employees?

23 A. Yes. I do have -- I believe we gave you the
24 whole list. But if you want me to give you the list, I
25 can -- I can give you the names again.

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1 Q. It wasn't clear from the list who is still
2 working for you and who isn't.

3 A. Okay.

4 Q. So if you can tell me who is working for
5 OnePoint right now as a direct employee?

6 A. Yeah, there is Mary Alar. Susan.

7 Q. What is Susan's last name?

8 A. Bautista?

9 Q. Uh-huh.

10 A. Fredrico Lara [phonetic].

11 Q. Uh-huh.

12 A. My wife is on the payroll, Regina Joseph.

13 Q. What does she do specifically for the company?

14 A. And Gabriel Perez.

15 Q. Mm-hmm.

16 A. And that's it.

17 Q. Okay.

18 A. And myself.

19 Q. Right. You're an employee, as well?

20 A. Correct.

21 Q. Is your company a corporation or an S Corp?

22 A. It's an S Corp.

23 Q. Okay. And what is your wife's name?

24 A. Regina Joseph.

25 Q. Okay. And what have you told the employees

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1 that aren't related to you about this case?

2 A. Well, Fredrico was already subpoenaed, I guess.
3 So he -- I had to tell him that I'm being -- I said I
4 cannot -- based on my counsel's advice, I said I can't
5 discuss anything further, but there is a possibility
6 that you will have to do a deposition. I told that to
7 Fredrico for sure. And Mary and Susan knows they --
8 that -- that something is going on. So I just told them
9 that I -- I am being sued by Toshiba.

10 Q. Okay.

11 A. I did not explain -- I did not say anything to
12 Gabriel.

13 Q. All right. What was the last fake bid that you
14 remember preparing?

15 MR. DANIELS: Counsel, can I clarify? Are
16 you asking for the date or the day of the project?

17 MR. FRIDMAN: I'm asking for the when.

18 Q. (BY MR. FRIDMAN) When was the last fake bid
19 you prepared?

20 A. I'm going to guess it was 2011, maybe 2012.

21 Q. You kept bidding on Toshiba projects after
22 2012, right?

23 A. Yes.

24 Q. And for any of those bids, did you prepare
25 complementary bids as well?

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1 A. Not that I know of.

2 Q. So if we see an A & A Premier bid, is that from
3 you?

4 A. One is from me, and one is not from me.

5 Q. Okay. Which one is from you?

6 A. I don't have it in front of me, so I can't -- I
7 don't know which one it is.

8 Q. Okay. I will show them to you --

9 A. Okay.

10 Q. -- and we can go through that.

11 I'm going to put an exhibit on the screen
12 for you. It is a -- again, it -- it's Exhibit 37, the
13 interrogatory answers.

14 Can you see that?

15 A. Yes, I can see that.

16 Q. Is it big enough for you?

17 A. Yes, it is.

18 Q. Okay. So we were talking about all the cash
19 that you had given to Pablo, the trips that you had paid
20 for, but there are a couple of things that we still
21 haven't reviewed. So I'd like to go over that with you
22 right now, all right?

23 A. Okay.

24 Q. So we're looking at Interrogatory No. 3 -- your
25 response to Interrogatory No. 3 -- and I want to direct

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1 your attention to the paragraph that starts where you
2 write (as read): "Prior to June 2014, Mr. D'Agostino
3 would sporadically demand that OnePoint pay his Bank of
4 America credit card bills. Mr. D'Agostino made it clear
5 to Mr. Joseph that if OnePoint did not make payments to
6 his credit card account, OnePoint would lose TIC's
7 business. OnePoint will produce documents reflecting
8 payments it made to Bank of America due to the -- the
9 demands of Mr. D'Agostino"; is that correct?

10 A. That is correct.

11 Q. So tell me about OnePoint paying Pablo
12 D'Agostino's Bank of America credit card bills.

13 A. He would write his -- his credit card account
14 number and -- and give it to me on a piece of paper, and
15 he would ask me -- he'd say, can you -- can you pay X
16 amount of dollars on this credit card account?

17 Q. And how would you send the payment?

18 A. I would write a check, and I would go in person
19 and pay it at Bank of America.

20 Q. Would the check be a personal check from you,
21 Mr. Joseph, or from OnePoint?

22 A. It's a OnePoint check.

23 Q. And tell me the amount that you paid
24 Mr. D'Agostino's credit card bills for.

25 A. I don't recall all those numbers right now.

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1 Q. I just want to get an idea of the range of
2 amounts that you recall paying.

3 A. Anywhere from \$4,000 to \$8,000.

4 Q. From \$4,000 to \$8,000?

5 A. Correct.

6 Q. Was it ever more than \$8,000?

7 A. Possible. I -- I don't -- I don't recall.

8 Q. How often would you pay Mr. D'Agostino's credit
9 card bills from Bank of America?

10 A. Whenever he told me to do it. I -- I believe I
11 did it about 8 or 9 times.

12 Q. So 8 or 9 times between 4,000 and \$8,000; is
13 that fair?

14 A. That's fair.

15 Q. So between 36,000 and \$72,000; is that right?

16 A. Total?

17 Q. Yes.

18 A. It's more than that.

19 Q. You paid more than that?

20 A. Yes.

21 Q. Okay. Tell me what you think you paid for
22 Mr. D'Agostino's Bank of America credit card bills.

23 A. I don't know the exact number, but it's more
24 than the number that you just give.

25 Q. It's more than \$100,000?

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1 A. Possible.

2 Q. More than 150,000?

3 A. I don't -- I don't know.

4 Q. What's -- what's your best estimate of the
5 range of amounts?

6 A. Under 200,000.

7 Q. So somewhere between 100,000 and \$200,000 worth
8 of Pablo D'Agostino's credit card bills were paid by
9 OnePoint; is that right?

10 A. Based on my recollection, yes.

11 [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

19 Q. Okay. Did you tell your accountant that you
20 were paying the expenses of Pablo D'Agostino?

21 A. No, I did not.

22 Q. So how can we identify the checks that you
23 wrote to Pablo D'Agostino's credit card?

24 A. Because it is made to Bank of America.

25 Q. Do you have it -- go ahead.

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1 A. I don't have an account -- I don't have an
2 account with Bank of America.

3 Q. You don't have an account anymore?

4 A. Well, I do have an account now, just last year,
5 but back then I did not have an account with Bank of
6 America.

7 Q. I see. You -- you weren't paying OnePoint's
8 bills, you were paying Pablo's bills with -- at Bank of
9 America?

10 A. I was paying -- he -- his credit card was with
11 Bank of America, and I was writing with my company Wells
12 Fargo checks.

13 Q. Right. So your company account was at Wells
14 Fargo?

15 A. Yes.

16 Q. All right. And every time, you would
17 personally go to Bank of America and deposit a check to
18 pay Mr. D'Agostino's credit card bills?

19 A. Yes.

20 Q. Were you doing this for him every month?

21 A. There was no consistency. It could have been
22 every two months, every three months, every month.
23 There was no pattern.

24 Q. Okay. And from what period of time did you do
25 this?

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1 A. I don't know the exact period, but I can give
2 you a broad range if you want me to.

3 Q. Sure. Give me a broad range as best you can.

4 A. 2011 to 2013 maybe.

5 Q. To 2013?

6 A. Possibly.

7 Q. Right.

8 Because I -- I noticed in your answer that
9 you write (as read): "Prior to June 2014."

10 So what -- what happened in June 2014?

11 A. He stopped asking me to pay for his credit
12 cards.

13 Q. And then -- so you stopped paying the credit
14 cards when he stopped asking?

15 A. Correct.

16 Q. And how do you pinpoint it to June 2014? How
17 do you know that that's the month he stopped asking?

18 A. In reading this, I must have found the last
19 check that was written to Bank of America, and that's
20 how I came up with that date.

21 Q. You found the last check?

22 A. Right.

23 Q. I see.

24 Can you describe the -- the document to me?

25 A. What document?

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1 Q. The -- the last check.

2 Or do you have a physical copy of the check
3 that you wrote?

4 A. I don't have it with me. Yeah. There is -- I
5 mean, there's -- there's probably an image of the check
6 with me.

7 MR. FRIDMAN: Okay. Has that been produced
8 to us, Mr. Daniels?

9 MR. DANIELS: I am the last person to
10 answer that question, but I will find out.

11 MR. FRIDMAN: Okay. Please let us know.

12 I -- I don't -- my -- my cocounsel may
13 correct me, but I -- I don't remember seeing that.

14 MR. DANIELS: Yeah. I know it's in our
15 response to the interrogatory. We say we'll produce the
16 documents reflecting payments. I don't know.

17 MR. FRIDMAN: Right. I didn't --

18 MR. DANIELS: And, Lauren -- Ms. Harris is
19 telling me we did produce the checks, but we'll -- I'll
20 try to find out where that is in the production.

21 By the way, it's -- it's past 11:45, almost
22 noon. Whenever you get to a logical stopping point,
23 let's break for lunch.

24 MR. FRIDMAN: Okay. I'm -- I'm comfortable
25 at breaking at this point in time.

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1 MR. DANIELS: Okay.

2 MR. FRIDMAN: So let's -- let's go off the
3 record, and how long of a break would you like?

4 THE VIDEOGRAPHER: Excuse me, sir. This is
5 off the record.

6 This is now the end of Video 2 of
7 Abraham Joseph. We're off the record at approximately
8 11:52.

9 (A break was taken from 11:52 a.m. to
10 12:41 p.m.)

11 THE VIDEOGRAPHER: Now, back on the record
12 with Video 3 with Abraham Joseph. The time is
13 approximately 12:42.

14 Q. (BY MR. FRIDMAN) All right. Mr. Joseph, when
15 we left off, we were talking about the payments that you
16 had made to Pablo D'Agostino, including the ones that
17 you had identified in your interrogatory responses. So
18 I want to put your interrogatory responses back up on
19 the screen. Just give me a moment.

20 MR. DANIELS: That's No. 37?

21 MR. FRIDMAN: This No. 37, yes.

22 Q. (BY MR. FRIDMAN) Can you see Exhibit 37,
23 Mr. Joseph?

24 A. Yes, sir.

25 Q. All right. I'm going back to Interrogatory No.

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1 3. We had talked about the payment of Pablo
2 D'Agostino's Bank of America credit card bills. Other
3 than Bank of America credit card bills, did you ever pay
4 other credit cards for Pablo D'Agostino?

5 A. I did not.

6 Q. All right. Then let's go to the paragraph
7 above, the one about the Bank of America credit card
8 bills where you wrote (as read): "Attached as Exhibit B
9 to TIC's interrogatories are two Home Depot receipts,
10 one dated April 20th, 2018, and the other July 5th,
11 2018."

12 Do you see that?

13 A. Yes.

14 Q. In the -- in the document?

15 A. Yes.

16 Q. Okay. Do you recall those credit card
17 receipts?

18 A. Yes, I do.

19 Q. All right. So you write (as read): "OnePoint,
20 Inc.'s Home Depot credit card with the name of Roberto
21 Carlos on it, paid for the items on the receipt. To the
22 best of Mr. Joseph's recollection, Mr. Carlos was
23 Mr. D'Agostino's handyman who performed services on
24 Mr. D'Agostino's houses.

25 "Mr. D'Agostino's demanded that OnePoint

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1 pay for the home improvement purchases made at Home
2 Depot in order for OnePoint to keep receiving TIC
3 business, and that OnePoint will provide the Home Depot
4 credit card statements for Mr. Carlos' card."

5 Do you see that?

6 A. Yes, I do.

7 Q. Is that correct?

8 A. Yes.

9 Q. So explain to me the circumstances surrounding
10 OnePoint obtaining a Home Depot credit card in the name
11 Mr. D'Agostino's handyman, Roberto Carlos.

12 A. Pablo asked me if we had any paint or other
13 materials for his -- for his house, and I told him I
14 don't have any. So he said, Can you go and buy me some
15 materials for me that I need for my house? I said, No,
16 I can't do that. So he said he has a handyman. He said
17 the handyman can go buy it. Can you issue him with a
18 credit card, and I did.

19 Q. Okay. When did you issue the credit card to
20 the handyman?

21 A. I don't know the exact date when I issued it.

22 Q. What is your best approximation?

23 A. Maybe a year or so ago.

24 Q. So was it in -- in 2018?

25 A. I really don't -- I don't recall the exact

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1 date.

2 Q. Okay. Well, let -- let me show you the credit
3 card receipts. I'm going to go back to Exhibit 48.

4 All right. Exhibit 48 is TIC's first set
5 of interrogatories to OnePoint.

6 Do you see that?

7 A. Yes, I do.

8 Q. All right. If we go to Exhibit B, we have two
9 Home Depot credit card receipts that I'm going to zoom
10 in here for you. The date on the first receipt is
11 April 20th, 2018, right?

12 A. Right.

13 Q. You see the total is \$725.96, right?

14 A. Right.

15 Q. You see it says, under that amount "OnePoint,
16 Inc."?

17 A. Yes.

18 Q. And under OnePoint, Inc. it says "Roberto
19 Carlos"?

20 A. Yes.

21 Q. Is Roberto Carlos Pablo D'Agostino's handyman?

22 A. Yes.

23 Q. So at least as early as April 20th, 2018,
24 Mr. Carlos was carrying a OnePoint credit card, right?

25 A. Yes.

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1 Q. Do you know how long before this date he first
2 got it?

3 A. I'm going to say maybe a -- maybe a year before
4 that.

5 Q. Maybe in 2017?

6 A. '17, yes.

7 Q. And then the second receipt on the next page is
8 dated July 5th, 2018, for \$120.

9 Do you see that?

10 A. Yes, I do.

11 Q. And, again, it says "OnePoint, Inc.," and under
12 that it says "Roberto Carlos," right?

13 A. Yes.

14 Q. And your understanding is that these were
15 purchases for the properties that Pablo D'Agostino
16 owned; is that right?

17 A. That's what he told me, yes.

18 Q. Do you know how much, in terms of Home Depot
19 purchases, OnePoint paid for Roberto Carlos,
20 Pablo D'Agostino's --

21 A. No. I don't know -- I don't know.

22 Q. You see a little bit further down under
23 Roberto Carlos, it says "2018 Pro XTRA spend includes,"
24 and it says "\$13,868."

25 Do you see that?

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1 A. I see that.

2 Q. That appears to me to be a total spend for 2018
3 up to that point for Mr. Carlos, right?

4 A. I'm not sure about that because there are other
5 employees with credit cards also. So the Pro account
6 could be all lumped together.

7 Q. Right.

8 I -- I agree with you. I -- it's -- it's
9 unclear from this receipt --

10 A. Right.

11 Q. -- whether it is just for Mr. Carlos or for
12 OnePoint as an entity.

13 A. Right.

14 Q. How can we figure that out?

15 A. I have no idea how to figure it out because
16 even -- I've got -- well, I used to have a Home Depot
17 card. I don't know if I still have it, but -- I don't
18 know what the breakdown is between Carlos and my
19 existing two or three employees who have the same card.

20 Q. Have you provided us with all the credit card
21 statements for Home Depot?

22 A. Not that I know of. I don't -- I don't recall.

23 MR. DANIELS: We don't think so, Counsel.

24 MR. FRIDMAN: Okay.

25 Q. (BY MR. FRIDMAN) Do you have those available?

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1 A. I'm not sure.

2 Q. All right. And do you have any sense of how
3 much in Home Depot expenses were paid for Pablo's
4 benefit by OnePoint?

5 A. I don't know the answer to that.

6 Q. Do you have a sense of whether it's thousands
7 of dollars or more?

8 A. I don't know.

9 Q. Was this credit card ever cancelled by
10 OnePoint?

11 A. Frankly, I -- I don't know.

12 [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

17 Q. So you provided this credit card so
18 Pablo D'Agostino would keep sending you TIC business,
19 right?

20 A. That's not true.

21 Q. Then why did you provide this credit card for
22 Pablo D'Agostino to use?

23 A. He asked me to get a credit card for
24 Mr. Carlos.

25 Q. And you did as he asked?

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1 A. I did what he told me to do.

2 Q. And during this period of time we've discussed
3 before, you were providing journeymen electricians to
4 TIC, and earning at least hundreds of thousands of
5 dollars, right?

6 A. I was providing journeymen electricians. I
7 don't know the exact number of what the total was for
8 journeymen electricians.

9 Q. So when Pablo asked you for a Home Depot credit
10 card from OnePoint, you provided it so that you would
11 keep that business, right?

12 A. I provided it because he asked me to provide
13 it.

14 Q. Okay. Did you keep the business?

15 A. In 2018, I was still there.

16 Q. And by still there, you mean at TIC?

17 A. I was still at -- I was still at TIC.

18 Q. And, you know, in your interrogatory responses,
19 as we reviewed, you wrote (as read): "Mr. D'Agostino
20 demanded that OnePoint pay for the Home Depot -- home
21 improvement purchases made at Home Depot in order for
22 OnePoint to keep receiving TIC's business," right?

23 A. I continued to stay there, yes.

24 Q. So is that an example of a quid pro quo?

25 A. I don't think so.

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1 Q. What do you consider that?

2 A. I consider that as marketing expenses for us to
3 continue doing business with Toshiba and staying there.

4 Q. Do you consider providing Pablo D'Agostino an
5 envelope with \$8,000 in cash a marketing expense?

6 A. That's what he asked me, and that's what I -- I
7 don't know about the \$8,000. If he asked me for cash, I
8 -- I did give it to him, and I consider that to be part
9 of a marketing expense and a requirement by TIC and
10 Pablo.

11 Q. All right.

12 (Exhibit 105 marked.)

13 MR. FRIDMAN: So I'm just going to ask my
14 team, can you upload Exhibit 105? Because that has not
15 gone through for me.

16 MR. SHARP: Yes, we'll do that.

17 Q. (BY MR. FRIDMAN) Other than what we have
18 already discussed today, which includes the -- about
19 \$100,000 paid to Pablo in payroll from 2007 to 2008, the
20 below market value sale of a truck to Pablo in 2009,
21 providing Pablo thousands of dollars in cash all the way
22 up through 2019, paying Pablo's credit card bills from
23 Bank of America up through 2014 to the tune of a couple
24 of hundred thousand dollars, and these Home Depot credit
25 cards, and the trips, what else of value did you give to

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1 Pablo D'Agostino?

2 A. I don't recall anything else that I gave to
3 him.

4 Q. And did you ever give anything of value to his
5 friends or family?

6 A. Absolutely not.

7 Q. To Melissa D'Agostino, his ex-wife?

8 A. I did not. I did not.

9 Q. To Ashley Tucker?

10 A. I did not.

11 Q. So you started providing payments to
12 Pablo D'Agostino within months of OnePoint starting to
13 do work for TIC in about August of 2007, right?

14 A. I don't know exactly when I started it. I -- I
15 don't know exactly when I started working there and when
16 I -- when I gave the payment. I don't know the exact --
17 within -- whether it was within months or a year, I
18 don't know the exact number of months.

19 Q. But what we've discussed today so far is that
20 as of -- about August of 2007, you had Pablo D'Agostino
21 on your payroll, right?

22 A. That is correct.

23 Q. And what we see is all the way through to 2019,
24 you are continuously providing Pablo D'Agostino with
25 cash and other benefits, right?

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1 A. At different intervals, not continuously. At
2 different intervals.

3 Q. Right.

4 But spanning that entire period of time,
5 right?

6 A. That is correct.

7 Q. And during that entire period of time up
8 from 2007 to 2019, you were doing work for TIC, right?

9 A. Yes, I was working there, yes.

10 Q. And Pablo D'Agostino kept giving you work,
11 right?

12 A. Not all the time. He -- well, he didn't give
13 me the work. I -- I bid on the jobs, and I got the
14 jobs.

15 Q. Right.

16 He also gave you the journeymen
17 electricians, right?

18 MR. DANIELS: Objection to form.

19 A. I was the only one who was -- who was asked to
20 bid on the journeymen electricians. No one else was
21 called in.

22 Q. (BY MR. FRIDMAN) That was your thing?

23 A. I'm not understanding what you mean.

24 Q. That's what --

25 A. Yeah, it was just me, yeah.

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1 Q. That was just you, right?

2 A. That was just me. Yes, sir.

3 Q. And was that from 2007 all the way through
4 September 2019?

5 A. That is correct.

6 Q. So during that period of time, you always were
7 billing TIC for providing journeymen electricians,
8 right?

9 A. Yes, I was.

10 Q. That was a constant, right?

11 A. Yes.

12 Q. And your payments to Pablo D'Agostino ceased
13 when he was terminated as an employee of Toshiba, right?

14 A. It did not -- it did not cease the day he was
15 terminated. I think it ceased even before that. I
16 don't know when is the last time I -- I gave him
17 anything.

18 Q. All right. Let me show you Exhibit 105. I'm
19 going to share my screen with you now. This is a
20 document that you produced through OnePoint,
21 Exhibit 105, Bates No. OnePoint000387, and it is a
22 document titled "Agreement for Services or Work
23 Performed on Premises." And --

24 A. Can you zoom then -- can you zoom that --

25 Q. Yes.

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1 A. -- a little bit, please?

2 Q. Is that better?

3 A. Okay. Yes, it's much better, yeah.

4 Q. And it seems to relate to a PEP restrooms
5 project?

6 A. Yes.

7 Q. Do you recall this project?

8 A. Vaguely.

9 Q. Okay. And this is a document that came out of
10 your files because it has your Bates number on it.

11 A. Uh-huh.

12 Q. Do you see that?

13 A. Yes.

14 Q. So the first part of this document, "Agreement
15 for Services or Work Performed on Premises," is a
16 contract between OnePoint and Toshiba International
17 Corporation.

18 Do you see that?

19 A. Yes.

20 Q. Do you see on Section 4 of that contract, it
21 says (as read): "Compliance with law. In the
22 performance of the work, the contractor shall comply and
23 satisfy all the requirements of all applicable laws,
24 regulations, standards, and codes, including, without
25 limitation, federal and state occupational safety and

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1 health laws and environmental laws."

2 Do you see that?

3 A. Yes.

4 Q. Did you agree to do that?

5 A. I haven't signed this piece of document, so...

6 Q. I'm going to scroll through the documents.

7 A. Okay.

8 Q. It's going to take a minute to catch up and
9 load.

10 All right. So I'm now on Page 7 of 9 of
11 this agreement, and there's a signature for Toshiba
12 International Corporation. It appears to be Michael
13 Ayers.

14 Do you see that?

15 A. Yes.

16 Q. And is that your signature under OnePoint?

17 A. Yes.

18 Q. And the printed name on there is Abraham
19 Joseph, right?

20 A. Yes.

21 Q. Signed as president?

22 A. Right.

23 Q. On August 17th, 2007, right?

24 A. Yes.

25 Q. So this was close to the time that you started

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1 working for Toshiba, right?

2 A. Possible. I thought it was before that, but
3 maybe that -- I don't know.

4 Q. You started working in -- at Toshiba in 2007,
5 right?

6 A. That is correct.

7 Q. This is also close to the time that you first
8 placed Pablo D'Agostino on OnePoint's payroll, right?

9 A. That's about right, yes.

10 Q. All right. So I'm going to scroll down the
11 document. Attachment A appears to have your bid for the
12 total sum of about \$124,911.

13 Do you see that?

14 A. Yes.

15 Q. And did you sign that bid?

16 A. Yes.

17 Q. Attachment B contains company policies.

18 Do you see that?

19 A. Yes.

20 Q. I'm going to draw your attention to the
21 standards of conduct for Toshiba America Group, okay?

22 A. Yes.

23 Q. Sometimes they're referred to as SOC for
24 standard of conduct, all right?

25 A. Okay.

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1 Q. So I'm going to go forward to Page 12. I'll
2 read you the Bates number. All right. We'll start at
3 Page 11. So Page 11 reads, "Chapter 1, SOC for business
4 activities." So standards of conduct for business
5 activities.

6 Do you see that?

7 A. Yes.

8 Q. That is Bates No. OnePoint409. Also, it has a
9 second Bates number of OnePoint387-23.

10 So part two of his procurement section, you
11 see we're on Section 4, it talks about procurement?

12 A. Yes.

13 Q. Okay. Part two says what directors and
14 employees shall do, all right?

15 A. Okay.

16 Q. Subheading 3, on the next page, which is
17 OnePoint410 says (as read): "Directors and employees
18 should 'refrain from receiving personal benefits from
19 suppliers with regard to corporate procurement, and
20 fulfill contractual obligations to suppliers in good
21 faith, ensuring that all transactions fully comply with
22 ethically sound commercial practices and with all
23 applicable laws and regulations to protect suppliers.'"

24 Do you see that?

25 A. Yes.

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1 Q. Does that statement inform you that it is
2 against Toshiba policy for an employee of Toshiba to
3 receive a personal benefit from a supplier with regard
4 to corporate procurement?

5 MR. DANIELS: Object to the form.

6 You mean now?

7 MR. FRIDMAN: I'm asking for his
8 understanding of the statement.

9 MR. DANIELS: I'm just asking -- at what
10 time frame?

11 MR. FRIDMAN: Yeah, as he sits here now.

12 Q. (BY MR. FRIDMAN) As we're talking right now,
13 what is -- what does this statement mean to you?

14 A. To me, it applies to somebody in Toshiba's
15 purchasing department who would be buying copper or
16 steel or whatever, that they're not supposed to receive
17 any personal benefits.

18 Q. Well, this doesn't seem to be limited to a
19 purchasing department. It says, "Directors and
20 employees shall." It's not limited, is it?

21 MR. DANIELS: Object to the form.

22 A. When I -- when I read the line where it says
23 "procurement," I'm thinking of somebody, a director or
24 an officer of the -- of the purchasing or the materials
25 management department.

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1 Q. (BY MR. FRIDMAN) Where do you see purchasing
2 or materials management department?

3 A. Oh, because when I see procurement, I'm
4 thinking in my mind, procurement as in somebody who is a
5 buyer for Toshiba.

6 Q. Okay. So you're -- you're adding words that
7 aren't there, right?

8 A. You asked me what my understanding was, and I'm
9 telling you what my understanding is about this
10 paragraph.

11 Q. Well, is it fair to say that this paragraph
12 means that one of the standards of conduct for Toshiba
13 employees is to refrain from receiving personal benefits
14 from suppliers?

15 MR. DANIELS: Objection. Form.

16 Q. (BY MR. FRIDMAN) Right? That's the policy.

17 A. I really can't interpret the policy of Toshiba.
18 I -- I don't understand.

19 Q. You don't understand the policy?

20 A. I gave you my best understanding of the policy.

21 Q. Okay.

22 I'm going to scroll to the end of this.

23 This is the last page in the document. It says (as
24 read): "Acknowledgment of receipt of policies of
25 Toshiba International Corporation."

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1 Do you see that?

2 A. Yes.

3 Q. Is that your signature?

4 A. Yes.

5 Q. And the date is August 17th, 2017, right?

6 A. Correct.

7 Q. It says that (as read): "You certify that you
8 have been provided a copy and read and understand the
9 policies of Toshiba International Corporation concerning
10 standards of conduct, equal employment, recycling and
11 waste disposal procedure, drug-free workplace,
12 contractor safety manual, drug-free workplace, workplace
13 drug and alcohol policy," correct?

14 A. Correct.

15 Q. And it further says (as read): "I agree to
16 adhere and follow the policies of the company."

17 Do you see that?

18 A. Yes.

19 Q. Did you agree to that?

20 A. Well, I agreed to -- there was -- in this,
21 there is one that is specifically for contractors where
22 they talk about lock-out/tag-out, safety, where to park,
23 what's speed you can drive with, what is the fire
24 evacuation routes, what is the confined space
25 requirements. So I did sign -- which I think is part of

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1 this package, so I was emphasizing more on the -- the
2 contractor side of things.

3 Q. So when you signed this, you were carving out
4 compliance with standards of conduct of Toshiba; is that
5 right?

6 MR. DANIELS: Object to the form.

7 A. I was not carving out. That is the one that
8 Pablo was focusing on, the part that applies to general
9 contractors.

10 Q. (BY MR. FRIDMAN) Did you read --

11 A. And the --

12 Q. Go ahead and finish.

13 A. The emergency number, I assume, it was 3911.
14 All those requirements, he really was begging to us
15 following those. So I -- I really honed down on those,
16 yes.

17 Q. Did you read the standards of conduct?

18 A. I don't recall reading it. I don't know.

19 Q. But you agree that you received them, right?

20 A. Yeah, it says "yes." It does say on this
21 document.

22 Q. So you received Toshiba's standards of conduct
23 in 2007, right?

24 A. Right.

25 Q. And then the -- the rest of this acknowledgment

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1 that you signed says (as read): "I understand the
2 compliance with the policies is a condition of my
3 performance of work on company premises and that any
4 violation of the policies may subject me to immediate
5 removal from company premises and prohibition from the
6 performance of any further work for the company."

7 Do you see that?

8 A. Yes.

9 Q. So you understood that if you provide an
10 employee a benefit, such as payments that the employee
11 should not be receiving, that you could lose the right
12 to work at Toshiba, right?

13 MR. DANIELS: Object to the form.

14 A. The way I understand it is the standard of
15 conduct applies to the employees, and it does not apply
16 to me as a contractor.

17 Q. (BY MR. FRIDMAN) So as a contractor, you don't
18 need to have ethics?

19 MR. DANIELS: Object to the form.

20 A. The standard of conduct that I'm reading over
21 here and what you just scrolled through is, it applies
22 to employees of Toshiba. I don't know if it applies to
23 me.

24 Q. (BY MR. FRIDMAN) It applies to -- oh -- so it
25 does -- so you feel -- you signed this agreement, but it

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1 doesn't apply to you; is that right?

2 MR. DANIELS: Object -- object to the form.

3 You're just arguing with him, Counsel.

4 Move on.

5 Q. (BY MR. FRIDMAN) Go ahead and answer,

6 Mr. Joseph.

7 MR. DANIELS: No, don't.

8 THE WITNESS: Okay.

9 MR. DANIELS: It's an argumentative
10 question. Move on.

11 Q. (BY MR. FRIDMAN) Did you feel the standards of
12 conduct did not apply to you, Mr. Joseph?

13 MR. DANIELS: That's been asked and
14 answered.

15 Q. (BY MR. FRIDMAN) Okay. Please answer the
16 question.

17 THE WITNESS: Can I answer?

18 MR. DANIELS: Yeah, answer it again.

19 A. The answer is, to me, the standard of conduct
20 is applicable to the employees of Toshiba. What applies
21 to me is what I need to stick to the contractor's safety
22 requirements, and I did adhere to that.

23 Q. (BY MR. FRIDMAN) So if -- if the standards of
24 Toshiba say suppliers should not pay employees, that
25 doesn't apply to you?

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1 MR. DANIELS: Object to the form. That's
2 not what it says. You're just arguing with him, and
3 you're mischaracterizing the document to do it. Move
4 on.

5 Don't answer.

6 Q. (BY MR. FRIDMAN) You're not going to answer?

7 MR. DANIELS: No, he's not going to answer.
8 Move on.

9 Q. (BY MR. FRIDMAN) All right. You know, you --
10 you've produced to us a bunch of the -- of these similar
11 types of documents that you have signed acknowledging
12 receipt of Toshiba's standards of conduct. I could show
13 each one to you, but to save time, do you agree that
14 you've received Toshiba's standard of conduct in a
15 similar format multiple times over the years?

16 A. I don't know how many times I have received it,
17 but I have received it.

18 Q. I am scrolling up to another section of the
19 standards of conduct.

20 Do you know if the standards of conduct
21 also prohibited submitting fake bids?

22 MR. DANIELS: You're asking him if he
23 knows?

24 MR. FRIDMAN: Yes.

25 A. I don't know that.

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1 Q. (BY MR. FRIDMAN) You never read them, though,
2 right?

3 A. I don't recall now if I read it or not, but --
4 but I don't recall anything about fake bids in this
5 contract.

6 Q. Okay.

7 So I'm taking you to Page 17 of the
8 standards of conduct, which is Bates No. OnePoint415.

9 Do you see where it says "Competition law"?

10 A. Yes.

11 Q. So it -- first, it says (as read): "Toshiba
12 Group companies shall comply with any and all laws and
13 regulations enacted for the purpose of maintaining free
14 and fair competition," right?

15 A. Right.

16 MR. HUSTON: I'm sorry to interrupt. I --
17 I missed the Bates number. Can you either put the Bates
18 number on the screen -- thank you.

19 Q. (BY MR. FRIDMAN) And then it says in part two
20 (as read): "Directors and employees shall avoid
21 agreements or understandings with competitors relating
22 to pricing, including quotations and bids, the volume of
23 production and sales, allocation of markets, customers
24 or territories, or restrictions on production capacities
25 or technology."

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1 Do you see that?

2 A. Yeah, I see that.

3 Q. So doesn't that policy tell you that the
4 practice that you followed of submitting fake
5 complementary bids with yours would be a potential
6 violation of Toshiba's competition policy?

7 MR. DANIELS: Object to the form.

8 A. I disagree to that.

9 Q. (BY MR. FRIDMAN) So had you read Toshiba's
10 standards of conduct, you would have known that it was
11 against Toshiba policy for its employees to receive
12 benefits from providers, like OnePoint, and against
13 company policy to engage in rigging of bids, right?

14 MR. DANIELS: Object to the form.

15 A. I don't know the answer to that.

16 Q. (BY MR. FRIDMAN) You don't know the answer, or
17 you don't want to answer?

18 A. I don't know the answer to that. I don't know
19 the answer to that.

20 Q. So the bottom line is that your position today
21 that you thought Pablo D'Agostino was reflecting Toshiba
22 corporate policy when he asked to be placed on the
23 payroll and receive hundreds of thousands of dollars in
24 cash from you from 2007 to 2019, that that was
25 consistent with Toshiba policy is completely undermined

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1 by the fact that Toshiba policy was clear and you
2 received it in 2007, right?

3 MR. DANIELS: Don't answer that. That's an
4 argumentative question.

5 Move on.

6 MR. FRIDMAN: You're instructing him not to
7 answer this question, too?

8 MR. DANIELS: You bet. You heard me. I'll
9 let you ask some fact questions the livelong day. I'll
10 let you ask his understanding, but I'm not going to let
11 you argue with him, Counsel. Not going to do it.
12 You'll have an opportunity to make your arguments, as
13 will we. Save it for then.

14 MR. FRIDMAN: Okay. Look, I mean that --
15 we're making note of the times that you're asking him
16 not to answer, and if he has to go back and answer the
17 questions after a motion to compel, then we'll do it.

18 MR. DANIELS: If you get a motion to compel
19 on that question granted, I will buy you a beer.

20 (Reporter clarification.)

21 Q. (BY MR. FRIDMAN) I'm going to show you
22 Exhibit 51. Exhibit 51 is a composite of some account
23 QuickReport printouts from OnePoint, Inc. that you
24 produced to us.

25 A. Can you zoom it out, please?

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1 MR. DANIELS: And, Counsel, do you know why
2 these aren't Bates labeled? Did we produce them to you
3 in native?

4 MR. FRIDMAN: Yeah. I -- I can't answer
5 that question, but that's -- that's the only way we
6 would have gotten them.

7 Yeah. If -- I'm happy for my team to jump
8 in if they know the answer.

9 MR. DANIELS: No. I -- we think -- we
10 think it's because we produced them in native.

11 MR. FRIDMAN: Okay.

12 Q. (BY MR. FRIDMAN) So I -- I believe that you
13 produced these documents to show some additional gifts
14 that were provided to Pablo D'Agostino, but I -- I can't
15 tell by looking at this what was for Pablo. So I'm
16 going to ask you to go page by page and identify for me
17 what from these printouts that you provided to us were
18 additional gifts for Pablo.

19 MR. DANIELS: So just -- let me be clear.
20 I'm going to get an objection on the record, Counsel,
21 about that being the purpose for which we produced them.
22 I'm not sure that's correct, but I'll -- I'll let him
23 answer, though, your question about it. I just wanted
24 -- wanted to note that.

25 A. Okay. So can you repeat the question, again,

1	please?
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2 Q. (BY MR. FRIDMAN) Yes.

3 _____

[REDACTED]

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14

MR. DANIELS: The --

15

MR. FRIDMAN: Sorry, Mr. Daniels, did you

16

say something?

17

MR. DANIELS: No. I was about to break my

18

own rule in speculating what it might be, but I'm not

19

here to help you out, sorry.

20

MR. FRIDMAN: Happy to have your help.

21

MR. DANIELS: I will -- I will, however,

22

try to figure out what we've produced it in response to.

23

MR. FRIDMAN: Okay.

24

Q. (BY MR. FRIDMAN) And excuse me as I take a

25

couple of moments here because we covered a bunch of

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1 things, and I -- I wanted to just get through everything
2 we've covered.

3 All right. I'm going to put on the
4 screen -- it's just taking a moment to load.

5 MR. DANIELS: Are we waiting on a new
6 exhibit?

7 MR. FRIDMAN: Yes, it's just taking a
8 moment.

9 (Exhibit 11 marked.)

10 Q. (BY MR. FRIDMAN) So I want to transition you
11 to talking about the bids that we prepared, and I'm
12 going to put on the screen Exhibit 11. Exhibit 11 says
13 (as read): "TMPE Area Building Proposal Package," and
14 it says, "Contractor AAA-Builders acknowledged by Komy
15 {sic}, K-O-M-Y, Azarpour."

16 Do you see that?

17 A. Yes, I do.

18 Q. It says "December 2014."

19 Do you see that?

20 A. Yes, I do.

21 Q. And then on the next page, there's a document
22 Bates No. TIC-110859 that is dated January 9th, 2015,
23 with a bid from A & A Premier Builders for the TMPE
24 project for \$1.95 million.

25 Do you see that?

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1 A. Yes, I do.

2 Q. Is that one of the fake bids that you prepared?

3 A. I'm not sure about this one. I don't know.

4 Q. Is this the one that you are not sure about?

5 A. That is correct.

6 Q. And why are you not sure about this one?

7 A. Because A & A Premier did bid on -- did a
8 legitimate bid on -- around this time frame on a
9 project, so that is why I am not sure.

10 Q. Okay. And do you remember the name of the
11 project that they did a legitimate bid on?

12 A. I don't know the exact name, but I'm confused,
13 that's why I can't answer that. There was two projects
14 around the same time. So I can't pinpoint which one it
15 was.

16 Q. Okay. And who at A & A would know about that
17 bid?

18 A. Luis Lopez.

19 Q. Who is Luis Lopez?

20 A. He's -- he was their project manager.

21 Q. Okay. And would Mr. Azarpour know about it?

22 A. Yes, he would.

23 Q. And what about Mr. Moayedhi?

24 A. Possibly, I'm not sure.

25 Q. All right. So you're not sure if this one of

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1 your fake bids or a legitimate bid --

2 A. I'm not sure about --

3 Q. -- from A & A Premier, right?

4 A. Correct.

5 Q. Okay. Let's put another one on the screen for
6 you.

7 MR. DANIELS: Can you give us the exhibit
8 number as it's pulling up so we can pull it up
9 simultaneously?

10 MR. FRIDMAN: Yes.

11 It is Exhibit 12.

12 (Exhibit 12 marked.)

13 MR. DANIELS: Thank you.

14 Q. (BY MR. FRIDMAN) All right. So Exhibit 12 is
15 similar to the one we just looked at except it has a
16 different date. This one says January 14th, 2015. I
17 believe the other one said January 9th, but this one is
18 still for the TMPE project at \$1.95 million.

19 Do you see that?

20 A. I see that.

21 Q. This one we got out of your files. It has a
22 OnePoint Bates number, so this came from your company.

23 A. Okay.

24 Q. So the Bates number here is OnePoint021887.

25 Do you see that?

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1 A. Yes, I see that.

2 Q. Does that help you understand that this is a
3 fake bid that you created in the name of A & A Premier
4 Builders?

5 A. I'm not 100 percent sure.

6 Q. Well, is there any reason why you would have a
7 bid from A & A Premier Builders in your company's files,
8 other than that you used your Word program to create it?

9 A. I -- I really don't recall this one.

10 Q. All right.

11 But you don't deny that this was in your
12 company's files, right?

13 A. If it was sent by the attorneys and if it
14 was -- if that's the Bates number, yes, it was in my
15 file.

16 Q. What would be a way to determine conclusively,
17 in your view, that this document was created by you as a
18 fake bid in the name of A & A Premier Builders?

19 MR. DANIELS: Object to the form.

20 You can answer, if you know.

21 A. I don't know the answer to that.

22 Q. (BY MR. FRIDMAN) Did Mr. Azarpour or Moayed
23 ever send you a bid from A & A Premier Builders for you
24 to submit to Toshiba?

25 A. No, they did not.

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1 Q. Did anyone from your company ever send you a
2 bid from A & A Premier Builders to submit to Toshiba?

3 A. No, they did not.

4 Q. All right. I'm going to load up Exhibit 53.
5 Exhibit 53 is a composite exhibit of all the A & A
6 Premier Builders bids that we have been able to
7 identify. It starts with TIC-13116 and it goes on, and
8 I -- I can scroll through it for you.

9 And I want you to tell me if there are any
10 bids here that you see that you did not create yourself.

11 MR. DANIELS: Hang on. It's not -- it's
12 not populating.

13 MR. FRIDMAN: Yep.

14 MR. DANIELS: About how many pages is this
15 document? It's -- it's 79 pages. He may need to go
16 through it slower than you're doing it.

17 THE WITNESS: Yeah, it's going too fast.

18 MR. FRIDMAN: Yep, I understand.

19 THE WITNESS: Yeah.

20 MR. DANIELS: Is there a way for you to let
21 him control the scrolling?

22 MR. FRIDMAN: Well, what you can do is,
23 I -- we did send you all these files this morning --

24 MR. DANIELS: Yeah, we -- we can do it.
25 We've got it up on -- on the big screen, but it's...

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1 MR. FRIDMAN: Do you have it there?

2 MR. DANIELS: Yeah, do it there. Do it
3 that way for now.

4 THE WITNESS: So are these from our Bates
5 file or where is this document from?

6 MR. DANIELS: Document from theirs.

7 THE WITNESS: From theirs? From Toshiba's
8 --

9 MR. DANIELS: You need to ask, Dan.

10 THE WITNESS: I just wanted to --

11 MR. FRIDMAN: Hey --

12 THE WITNESS: Dan?

13 MR. FRIDMAN: Yes.

14 THE WITNESS: These documents are things
15 that we have sent to you?

16 Q. (BY MR. FRIDMAN) It could be a combination.
17 You can tell based on the Bates number.

18 A. Okay.

19 Q. TIC came from TIC's files and OnePoint came
20 from yours.

21 A. Okay.

22 Q. Just let me know when you're finished looking
23 through them.

24 A. Yeah. You can scroll -- continue scrolling.

25 THE WITNESS: Oh, sorry. It's not

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1 scrolling on the big screen.

2 MR. DANIELS: No, no, the big screen is for
3 us.

4 THE WITNESS: Oh, okay. Okay. Can you do
5 it, please? Okay.

6 So anything with TIC is their document,
7 correct?

8 MR. DANIELS: Yes, that's right.

9 THE WITNESS: Okay. Keep going.

10 MR. DANIELS: And the question, Counsel,
11 is: Are there in this composite that were not prepared
12 by Mr. Joseph?

13 MR. FRIDMAN: Correct.

14 MR. DANIELS: Is that correct?

15 MR. FRIDMAN: Correct.

16 THE WITNESS: Keep going. Okay. Stop.
17 Let me see about the description, okay. Yeah, keep
18 going.

19 Q. (BY MR. FRIDMAN) And if you identify one that
20 you did not create, then just call it out for us.

21 A. Okay.

22 THE WITNESS: Okay. Go back on this one,
23 please. This one. Because I'm trying to see what this
24 project is. Yeah, keep going up. Keep going. What's
25 the name of the project?

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1 MR. DANIELS: Is this all one?

2 THE WITNESS: Yeah, this is all one, yeah.

3 Just keep going up. Yeah, that's -- there
4 is Okay. Going up. Okay. Hold it right there. I'm
5 trying to see what the project is.

6 Can you make a note of that date, 12/17/10?

7 MR. DANIELS: And the Bates number?

8 THE WITNESS: Thank you. Keep going.

9 MR. DANIELS: She's got to write the Bates
10 number.

11 THE WITNESS: Oh, sorry.

12 Q. (BY MR. FRIDMAN) Have you identified the
13 document?

14 MR. DANIELS: He's not -- we're trying to
15 figure that out.

16 THE WITNESS: The one that -- are you
17 making a note of this?

18 MR. DANIELS: Yes, we are.

19 THE WITNESS: Okay.

20 MR. DANIELS: Is this a new one?

21 THE WITNESS: It's part of the same one.
22 Just keep going.

23 Yeah, yeah. That -- that one right there.
24 Can you write that number down, okay. All right. Keep
25 going. Keep going, okay.

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1 MR. DANIELS: This is...

2 THE WITNESS: Right.

3 MR. DANIELS: So we're making notes of this
4 Bates number.

5 MR. FRIDMAN: All right. What did you say,
6 Mr. Daniels?

7 MR. DANIELS: I just -- we've come to the
8 one that you've previously showed him that he wasn't
9 sure about, and so I asked Ms. Harris to please make a
10 note of the Bates number, so we're almost done
11 scrolling.

12 A. Okay. I've been through the list.

13 So the question is --

14 MR. DANIELS: Why don't you ask him the
15 question again?

16 A. Go ahead and question me, Dan.

17 Q. (BY MR. FRIDMAN) Sure. Mr. Joseph, you've had
18 a chance to review composite Exhibit 53 of the A & A
19 Premier Builders bids, right?

20 A. Right.

21 Q. Okay. Have you identified any that you did not
22 prepare yourself?

23 A. Yes, I did.

24 Q. Okay. Which ones?

25 A. That's the one which I said, the very first one

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1 so...

2 THE WITNESS: Okay.

3 MR. DANIELS: So, Counsel, I've -- I've
4 handed him the note -- a piece of paper with the date
5 and the Bates number that he asked Ms. Harris to write
6 down.

7 A. Okay. Are you ready?

8 Q. (BY MR. FRIDMAN) Yes.

9 A. It is TIC-00010849.

10 MR. DANIELS: What was the date?

11 A. And -- well, there's 849, there's 850, and 851.
12 And the date -- the date is 12/17/10.

13 Q. (BY MR. FRIDMAN) Okay. Is that the only one,
14 or are there others?

15 A. That's the only one.

16 MR. DANIELS: Are you sure?

17 THE WITNESS: I'm sure about it now, so I
18 --

19 Q. (BY MR. FRIDMAN) Okay. So let me see. I
20 think it might be this document.

21 A. That is correct.

22 Q. TIC-10849.

23 A. Right.

24 Q. Is a document dated December 17th, 2010, on --
25 it says "Estimate" and it purports to be from A & A

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1 Premier Builders, right?

2 A. That is correct.

3 Q. And the bid is for \$3.695 million?

4 A. Correct.

5 Q. Do you know what project this is?

6 A. I believe it's the HEB project.

7 Q. Okay. And how do you know that you did not
8 create this document?

9 A. Because that's the one -- it's got Luis', he's
10 a senior project manager, signature on it.

11 Q. So that's the one that Luis, an employee of A &
12 A, put together?

13 A. That is correct.

14 Q. Okay. And how do you know that Luis put that
15 one together?

16 A. I know that for a fact because Luis was there
17 during the -- when Pablo was giving out the -- the
18 drawings to all the -- to the contractors.

19 Q. Did you invite Luis to that meeting?

20 A. I mentioned to Kommy about this project, yes.

21 Q. Now, have you read Kommy's testimony?

22 A. No. I did not read his testimony, no.

23 Q. I -- I believe -- my recollection of his
24 testimony is that A & A Premier Builders wasn't doing
25 projects of this size.

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1 A. I -- I don't know what he said. I did not read
2 his -- but they did bid on this.

3 Q. Okay. So this is not a bid you prepared?

4 A. No. I did not prepare this bid.

5 Q. Did you tell them what price you bid?

6 A. I did not tell them what price I bid on.

7 Q. Did you tell them what price they should bid
8 at?

9 A. I did not tell them that.

10 Q. Okay. And what is Luis' last name?

11 A. Lopez, I'm guessing.

12 MR. DANIELS: Don't guess.

13 A. Okay. Sorry. I don't know his last name. I
14 really don't know. Luis for sure.

15 Q. (BY MR. FRIDMAN) All right. I appreciate
16 that.

17 A. Yeah.

18 Q. So other than this one bid, all the other bids
19 in composite Exhibit 53 were prepared by you, right?

20 A. That is -- that is correct.

21 Q. Okay.

22 MR. DANIELS: And, Counsel, I'm going to
23 need to break in three minutes to go get my jacket on
24 for my hearing. If you want to go for that period of
25 time or if you want to go ahead and break now because I

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1 don't want to break your flow.

2 MR. FRIDMAN: Well, you know, here's a way
3 that we might be able to put your break time to good use
4 because you've got that hearing, right?

5 MR. DANIELS: Yes.

6 MR. HUSTON: All right. Why don't we have
7 Mr. Joseph review Exhibit 56 and Exhibit 55, which are
8 composite exhibits of Atkins bids and Millenium bids.

9 MR. DANIELS: Got it. Just follow --
10 follow the same procedure we just followed.

11 MR. FRIDMAN: Go through the same procedure
12 so that when we reconvene after your -- your hearing, he
13 can tell us if there are any in those exhibits that he
14 did not prepare.

15 MR. DANIELS: Okay. That works.

16 THE WITNESS: Will that work?

17 MR. DANIELS: Yeah.

18 MR. FRIDMAN: So we can -- we can go off
19 the record, and you'll let us know when we -- you're
20 back from your hearing.

21 MR. DANIELS: Yeah.

22 MR. FRIDMAN: All right.

23 THE VIDEOGRAPHER: Okay. This is now the
24 end of Video 3 of Abraham Joseph. Off the record at
25 1:53.

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1 (A break was taken from 1:53 p.m. to
2 2:15 p.m.)

3 THE VIDEOGRAPHER: We are now back on the
4 record, Video 4 of Abraham Joseph. The time is
5 approximately 2:15.

6 Q. (BY MR. FRIDMAN) All right. Mr. Joseph,
7 during the break, did you have an opportunity to review
8 Exhibit 55, the composite of the Atkins Group's bids?

9 A. Yes, I did.

10 Q. All right. Let me put Exhibit 55 on the
11 screen. After reviewing Exhibit 55, did you identify
12 any bids that you did not create yourself?

13 (Exhibit 55 marked.)

14 A. I did not find any.

15 Q. (BY MR. FRIDMAN) So all the bids in composite
16 Exhibit 55 in the names of -- in the name of the Atkins
17 Group were created by yourself; is that correct?

18 A. Yes.

19 Q. And you submitted all of these bids alongside a
20 OnePoint bid, right?

21 A. Yes.

22 Q. And when we discussed A & A Premier Builders,
23 Exhibit 53, the bids that you identified as having been
24 submitted by you on behalf of A & A Premier Builders,
25 those were also submitted alongside OnePoint bid from

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1 you, right?

2 A. Except one of those.

3 Q. Correct.

4 Except the one that you pointed out to us.
5 All the other ones were submitted alongside a OnePoint
6 bid, right?

7 A. Yes.

8 Q. And in each case, the A & A Premier bids that
9 you prepared had a higher price for the project than the
10 OnePoint bid, right?

11 A. Yes.

12 Q. And with the Atkins Group, the same thing,
13 right?

14 A. Yes.

15 Q. I'm going to share my screen. We can take a
16 look at the first document on Exhibit 55. It's dated
17 August 22nd, 2007, "Upgrades to Restrooms in
18 Administrative Building A."

19 Do you see that?

20 A. Yes.

21 Q. So if we go to the third page, there's a
22 signature there that purports to be on behalf of Jay
23 Atkins, right?

24 A. Right.

25 Q. Who wrote that signature then?

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1 A. I did.

2 Q. That's your handwriting?

3 A. Yes.

4 Q. So that's a -- a forged document, right?

5 A. I signed it.

6 Q. You signed it in the name of the other person
7 who didn't consent, right?

8 A. He did not know about it.

9 Q. Okay. And then for the record, happy to be
10 corrected on this, but as far as A & A Premier bids, we
11 -- we had 35 in that composite exhibit. So minus the
12 one that Mr. Joseph says he did not prepare, there
13 should be 34 A & A Premier bids that were created by
14 yourself, Mr. Joseph.

15 Does that sound about right?

16 A. It's about right.

17 Q. Or do you think there were more?

18 A. That -- that was it.

19 Q. And then from the Atkins Group, I believe we've
20 also counted about 35 bids prepared by you from the
21 Atkins Group in composite Exhibit 55.

22 Does that sound about right?

23 A. Sounds right.

24 Q. Okay. Let's go onto Exhibit 56. I will put
25 that on the screen.

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1 Do you see Exhibit 56 on the screen?

2 A. Yes, sir. I do.

3 Q. Okay. And Exhibit 56 is the composite about
4 the Millenium bids, and Millenium is spelled
5 M-I-L-L-E-N-I-U-M, right?

6 A. Based on what I'm reading here, yes.

7 Q. And the name of the company on the bids is
8 Millenium Performance, right?

9 A. Right.

10 Q. All right. So you have looked through
11 composite Exhibit 56, right?

12 A. Yes.

13 Q. And are there any bids in composite Exhibit 56
14 that you did not prepare?

15 A. No.

16 Q. So all of the Millenium Performance bids that
17 are in composite Exhibit 56 were prepared by yourself,
18 right?

19 A. Yes.

20 Q. And you see where it says on the first page,
21 March 20, 2008, bid from Millenium Performance signed by
22 Sam Kurian.

23 Whose signature is that?

24 A. It's my signature.

25 Q. That's not your brother-in-law's signature?

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1 A. No, it was not.

2 Q. And Mr. Kurian was not aware that you were
3 doing this in the name of his company?

4 A. That is correct.

5 Q. And these Millenium Performance bids, were they
6 submitted to TIC alongside bids from OnePoint that you
7 prepared?

8 A. Yes.

9 Q. I believe we've counted about 45 Millenium
10 Performance bids.

11 Does that sound right?

12 A. Sounds right.

13 Q. So had you forged Mr. Kurian's signature on
14 this document?

15 MR. DANIELS: Object to the form.

16 A. Yes, I have.

17 Q. (BY MR. FRIDMAN) Do you know if submitting a
18 forgery is against the law?

19 MR. DANIELS: Object to the form.

20 A. I don't know the law on forgery.

21 Q. (BY MR. FRIDMAN) Were you uncomfortable
22 creating these Millenium Performance bids in the name of
23 Sam Kurian?

24 A. I was asked to get complementary bids, and I
25 got the complementary bids.

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1 Q. But these were fake bids, right?

2 A. These were complementary bids required by Pablo
3 and TIC.

4 Q. Again, anyone other than Pablo D'Agostino ask
5 you to submit a bid, a complementary bid?

6 A. No.

7 Q. Now, on this Millenium Performance document, do
8 you see this email, it says "kurian_sam@hotmail.com"?

9 A. Yes.

10 Q. Is that your brother-in-law's email address?

11 A. I'm -- I'm sure that's his email address back
12 then. I don't know if he still has it.

13 Q. Or did you create a fake email address for any
14 of these companies?

15 A. No, I did not.

16 Q. And for each of these bids in the name of
17 Millenium, Atkins, and A & A, each of them you
18 hand-delivered personally to Pablo D'Agostino?

19 A. Yes.

20 Q. Did you ever send them by email?

21 A. I don't recall sending it by email.

22 Q. Is it possible you did?

23 MR. DANIELS: Object to the form.

24 A. I don't know.

25 Q. (BY MR. FRIDMAN) Did you send any by FedEx?

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1 A. I don't recall sending it by FedEx.

2 Q. What about U.S. mail?

3 A. I don't recall.

4 Q. All right. You also testified this morning
5 that you submitted bids in the name of ERC, right?

6 A. That is correct.

7 Q. All right. I'm going to show you a bid from
8 ERC. So we're going to take a look at Exhibit 23.

9 MR. DANIELS: 23?

10 MR. FRIDMAN: 23.

11 (Exhibit 23 marked.)

12 Q. (BY MR. FRIDMAN) Do you see Exhibit 23 on the
13 screen?

14 A. Yes, sir, I do.

15 Q. It's a document with Bates label TIC-119704.

16 A. Yes, sir.

17 Q. And it is a purchase requisition from Toshiba
18 International Corporation.

19 Do you see that?

20 A. Yes, I do.

21 Q. All right. You see on the top of the bid, it
22 has "Suggested/Recommended sources. OnePoint, Inc.,
23 Environmental Resource Consultant, and On The Spot
24 Construction."

25 Do you see that?

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1 A. Yes, I do.

2 Q. What is On The Spot Construction?

3 A. It's another construction company.

4 Q. Is it a legitimate construction company?

5 A. Yes, sir. It is.

6 Q. Did you prepare bids in the name of On the Spot
7 Construction?

8 A. I did not.

9 Q. Did you coordinate bids with On the Spot
10 Construction?

11 A. I did not.

12 Q. Who is in charge of that company?

13 A. I don't know.

14 Q. Have you ever had business dealings with them
15 before?

16 A. I vaguely remember them from 2008.

17 Q. In what way?

18 A. Well, I've seen their billboards here in town
19 or in the -- in the construction industry, I just knew
20 about them.

21 Q. Okay. You've seen their -- their billboards,
22 but apart from that, you haven't had any dealings with
23 them?

24 A. No, I did not.

25 Q. All right. Let's take a look at the

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1 description of the project. It says (as read):
2 "Project No. 799-08 Asbestos Abatement and Oversight in
3 Mod 1."

4 Do you see that?

5 A. Yes, I do.

6 Q. And the total amount is \$34,211, right?

7 A. That is correct.

8 Q. OnePoint won this bid, right?

9 A. Right.

10 Q. Do you recall this project?

11 A. Yes, vaguely.

12 Q. What do you remember about it?

13 A. This was in -- the Mod 1 is Module 1 where we
14 had to tear down the ceilings, the floor. Take out all
15 the -- the asbestos-containing materials. And then as
16 GC, we were supposed to put everything back, back to
17 what it was before.

18 Q. Okay. So I'm scrolling to the second page of
19 this document, and we see a bid from OnePoint for
20 \$34,211.

21 Do you see that?

22 A. Yeah. I'm just trying to switch my glasses,
23 sir.

24 Q. You see -- I could zoom it in a little bit more
25 for you.

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1 A. Can you zoom it a bit?

2 Q. Can you see that?

3 A. Yeah, I see it.

4 Can you zoom it in a bit? Yeah, I see it
5 now, yeah.

6 Q. Okay. And whose signature is on that bid?

7 A. It's my signature.

8 Q. All right. And if we go to the next document,
9 we see a bid that purports to be from ERC for
10 engineering and remediation services at the Toshiba
11 complex, Module No. 1.

12 Do you see that?

13 A. Yes, I do.

14 Q. And the ERC bid is more than OnePoint's bid,
15 right?

16 A. Yes.

17 Q. It's \$37,681, right?

18 A. Right.

19 Q. Who prepared this ERC bid?

20 A. I prepared it.

21 Q. And how was it that you prepared it?

22 A. I just created it on the computer as a Word
23 document.

24 Q. And whose signature up here is under the VP of
25 operations under the name Mike Afshar, A-F-S-H-A-R.

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1 A. It -- it could be his signature, but I could
2 have used the page from -- from somewhere else maybe, I
3 don't know, or I may have forged it. I'm not sure -- I
4 don't know.

5 Q. Okay. So either you forged it or maybe you did
6 a cut and paste of his signature from another document;
7 is that right?

8 A. I don't recall. But I don't know the answer to
9 that. I -- I can't answer to that. I don't know. I
10 can't tell.

11 Q. Okay. But Mike Afshar did not sign this,
12 right?

13 A. Again, I -- I don't know.

14 Q. Because you created this document, right?

15 A. I did create this document. It was in 2008. I
16 -- I don't recall who signed it.

17 Q. Okay. How did you send that document to
18 Pablo D'Agostino?

19 A. I hand-carried it to him and gave it to him.

20 Q. All right. So I'm going to show you
21 Exhibit 24. Exhibit 24 is a proposal from ERC to you at
22 OnePoint for engineering or remediation services at the
23 Toshiba complex, Module 1.

24 Do you see that?

25 (Exhibit 24 marked.)

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1 A. Yes, I do.

2 Q. (BY MR. FRIDMAN) So was ERC your subcontractor
3 for this project?

4 A. Yes.

5 Q. And I'm scrolling through the document. What
6 was ERC's price to you?

7 A. On this document it was 12,430.

8 Q. All right. And do you recall what you billed
9 Toshiba for this project?

10 A. I think it was 27, 37, something like that.
11 I'm not sure. I'd have to look at the document.

12 Q. About \$36,000?

13 A. I don't know what -- I can't -- I don't know.
14 I'd have to look in the actual -- my proposal.

15 Q. Okay. So we'll remember that this one was
16 12,430, right?

17 A. Yes.

18 Q. We'll go back to Exhibit 23.
19 34,211, right?

20 A. That's -- that's correct. That's -- that's --

21 Q. That was OnePoint's proposal?

22 A. Correct.

23 Q. So did you mark up this project almost three
24 times as much as it cost OnePoint?

25 A. No, I did not.

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1 Q. Okay.

2 A. Because there is -- go ahead.

3 Q. Okay. I -- please explain.

4 A. Because this project in the module plan,
5 Module 1 involved not just the asbestos abatement.
6 Typically, somebody like ERC would just come there like
7 a bull in a China shop, tear everything out, and go
8 away. But we were responsible for even putting back the
9 ceiling; the ceiling grips; the lights; removing the
10 furnitures out for them; putting the furnitures back;
11 putting the floor because they just ripped everything
12 off. So ours was a turnkey price to do everything as a
13 GC.

14 Q. Okay. And who did you get to do that work?

15 A. Several of those -- some of those were done by
16 my in-house employees. We are capable of doing ceiling
17 work, ceiling-grade flooring. If it was minor DCT
18 flooring, we must have done it. Some of it, we must
19 have outsourced it. But it was -- some done in-house
20 and some outsourced. Moving the furnitures and all that
21 was done by -- and these modules are sitting up -- high
22 up in the air. We are bringing everything down, put it
23 back up; put the containment; take out the containment.
24 So there's more -- more than just doing the asbestos
25 abatement.

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1 Q. All right. And how much did that project cost
2 you?

3 A. I don't recall what it was back in 2008.

4 Q. And it's your position that ERC did not do that
5 work?

6 A. ERC does not do those kinds of work. They just
7 do the asbestos engineering consultation and the
8 abatement work. They did not do the actual construction
9 work.

10 Q. And what backup can you provide us for your
11 position on how much this project costs you?

12 A. I don't have any backups right now in my
13 possession.

14 Q. Do you have a project file for this?

15 A. I'm sure there's a -- there should be a project
16 file. I don't -- I don't make the project file until
17 it's complete with all the trades that worked on that
18 12, 13 years ago. I'm not sure. And there are a lot of
19 functions that's done my -- by my in-house employees. I
20 don't keep track of all that on each and every project.

21 Q. Which project do you keep track of?

22 A. Well, every project -- if there is -- if there
23 is a project that involves a -- a big portion of the
24 project -- which probably will be in the -- in the
25 project folder. But I don't -- if I was to keep

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1 tracking -- no, I don't keep track of each and every
2 item that went into that project.

3 Q. So why did you submit a fake bid for this
4 project?

5 A. Because Pablo requested me to get another
6 complementary bid.

7 Q. All right. Let's talk about the journeymen
8 electricians. You provided journeymen electricians to
9 TIC, right?

10 A. Yes.

11 Q. From 2007 to 2019, right?

12 A. Yes, sir.

13 Q. And the journeymen electricians were
14 subcontracted to OnePoint primarily by EMS, right?

15 A. Yes, sir.

16 Q. That's Brad Jackson's company, right?

17 A. Yes, sir.

18 Q. And you used EMS from 2007 to 2019, right?

19 A. Yes, sir. Correct.

20 Q. And EMS generally charged \$1.40 an hour for
21 regular time for journeymen electricians and \$6 an hour
22 for overtime for journeymen electricians from 2007 to
23 2019, right?

24 A. I don't know the exact number. It could be 38.
25 I don't know the exact dollar amount.

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1 Q. Yeah. I -- I just want to be approximate.
2 Generally speaking, it was about 40 and 60, right?

3 A. If it is overtime, yeah, it would be 60, yes.

4 Q. And 40 for regular?

5 A. Well, I don't know. I think at some point it
6 was even 38 at some -- at one point, if I recall.

7 Q. Okay. But it wasn't significantly above or
8 below 40, right?

9 A. That is true. That is correct.

10 Q. And then, in turn, OnePoint charged TIC \$80 an
11 hour for regular time and \$120 an hour for overtime for
12 the journeymen electricians provided by EMS, right?

13 A. And \$180 an hour for overtime for the
14 journeymen electricians, right.

15 Q. And that's 100 percent profit margin for you,
16 right?

17 MR. DANIELS: Object to the form.

18 A. It's not 100 percent profit. I have to factor
19 a lot of other things in my profit.

20 Q. (BY MR. FRIDMAN) Okay. Tell me what you
21 considered?

22 A. Okay. So, first of all, we -- we were engaged
23 in this -- providing journeymen electricians after they
24 had a death in Toshiba where a person was electrocuted
25 and died based on what I was told, and they wanted to

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1 just not deal with it and just sub it out to somebody.
2 And that's -- so I knew about -- frankly, that someone
3 had actually died and electrocuted on the premises. So
4 I had to put in all kinds of contingency to take care of
5 sending anybody over there and making sure that nobody
6 is going to be electrocuted and I get sued for whatever,
7 number one.

8 Number two, I knew that these people would
9 be working around very, very high sensitive, secretive,
10 and very, very expensive equipment in the Toshiba
11 Industrial Complex that one mistake on the part of these
12 electricians, it would have been my fault. So I had to
13 take some serious consideration as far as the loss of
14 life, and loss of equipment, and also loss of business
15 in case we screwed up something. So those were two of
16 my biggest factors.

17 Apart from that, before I even supplied
18 them with journeymen electricians, I have used
19 journeymen electricians working under me as
20 subcontractors, and they -- and I've talked to several
21 companies, they have given me price ranges anywhere from
22 \$77 to \$100 range. That was a range I got from other
23 electrical subcontractors. And when I talked to them
24 about using their services at -- working under me
25 full-time, five days a week, seven days a week for 13

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1 years indefinitely, they said we cannot even honor that.
2 If we can give you one or two persons for maybe a week,
3 maybe at the most. But we're are not going to time out
4 full-time. But even at that, they were going to charge
5 me 77 to \$80 an hour.

6 So considering the risk, considering the
7 fact that they were being supervised by Toshiba
8 employees, their exposure to being in very high
9 locations, expensive equipments, that was the number I
10 came up with. And the administrative cost that I have
11 to incur, so there was a lot to it than just taking \$40
12 and just doubling it to \$80.

13 Q. So let's -- let's take that part a bit.

14 A. Okay.

15 Q. So your -- your position is that you were
16 taking on risk? Did you ensure that risk?

17 A. Absolutely. I had insurance, obviously. But I
18 remember even during the latter part of this project, I
19 -- I upped my insurance all the way up to \$9 million
20 just to -- just to be safe.

21 Q. So you carried \$9 million of liability
22 insurance?

23 A. Not -- not in the first year, but in -- about a
24 few years down the road, yes, I just -- because I was
25 really concerned about -- at one point, we had 10, 12

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1 people on the premises. They wanted me to ramp up the
2 number of electricians if they had an emergency, and it
3 was always, let's do it now. Hurry up. So that's when
4 I ramped it up to \$9 million.

5 Q. Okay. And what year did you do that?

6 A. I don't recall the exact year, but I did do
7 that.

8 Q. Okay. Was it before 2015?

9 A. Oh, yeah. Way before 2015, yes.

10 Q. Before 2010?

11 A. I don't know the exact date.

12 Q. What were your liability insurance premiums?

13 A. I had up to \$9 million in liability coverage.

14 Q. How much did that --

15 A. Oh, the -- oh, the premiums. I don't -- I
16 don't know my premiums. I don't know the exact number.

17 Q. All right. And was that \$9 million just for
18 the journeymen electricians, or was it for all the work
19 OnePoint did?

20 A. For all the work that we did.

21 Q. For all clients?

22 A. Correct. But my other clients did not require
23 that. It was just -- I did that for Toshiba because I
24 -- I even recall Pablo asking me to up it to, you know,
25 5, 6, 7, 8, \$9 million.

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1 Q. Did -- was that part of an agreement or
2 contract that you had with Toshiba to carry that much
3 insurance?

4 A. No, it was not a contract. It was verbally --
5 verbal discussions with Pablo.

6 Q. And the liability insurance that you got would
7 cover your subcontractors working at Toshiba?

8 A. Yes, they would.

9 Q. Okay. And who wrote the policy?

10 A. Well, I -- I --

11 MR. DANIELS: No, who -- who -- objection.
12 What's the question again?

13 MR. FRIDMAN: I could rephrase it,
14 Mr. Daniels.

15 MR. DANIELS: Rephrase it.

16 Q. (BY MR. FRIDMAN) Yes.

17 What --

18 A. Can you repeat that, please?

19 Q. -- what insurance company provided the
20 liability policy that you got?

21 A. So my insurance keeps changing. I have Dean &
22 Draper who's my agent. They will look around for the
23 best rates. So sometimes it could be CNA Insurance.
24 Sometimes it could be Safeco. It could be Chubb's. I
25 don't -- it just keeps changing so. But my -- my --

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1 yeah, Dean & Draper is my insurance agent.

2 Q. They've been your insurance agent since 2010?

3 A. For sure, yes.

4 Q. Would you be able to provide us with
5 information about how much your insurance premiums cost?

6 MR. DANIELS: We can talk about that
7 offline, Counsel.

8 MR. FRIDMAN: I just want to know if he has
9 that information available.

10 MR. DANIELS: You can answer that.

11 MR. FRIDMAN: I'm not -- I'm not asking him
12 to agree.

13 A. At one point, I think it was close to over
14 120,000-something in premiums.

15 MR. DANIELS: That's not his question.

16 THE WITNESS: Oh, I'm sorry.

17 MR. DANIELS: His question was: Do you
18 have the ability to go back and find that information if
19 available?

20 A. Yes, it is available.

21 Q. (BY MR. FRIDMAN) Okay. And what you're
22 telling me is that the insurance -- liability insurance
23 premium costs \$120,000 a year?

24 A. Based on my recollection. I'm not sure about
25 it.

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1 Q. Did you ever have to submit a claim under the
2 policy related to Toshiba?

3 A. Never. Never. We had no problems.
4 Absolutely, no complaints.

5 Q. All right. What were your administrative
6 costs?

7 A. I don't know the exact number of it. I don't
8 know what the exact dollar amount would be.

9 Q. Well, describe for me what you consider to be
10 the administrative burden of providing OnePoint
11 subcontracted electricians to Toshiba?

12 A. Well, I would -- I would make site visits once
13 in a while. I would get bills from Brad Jackson. We
14 would have to process the bill, send the invoices to
15 Toshiba, get paid for it, and constantly getting phone
16 calls from either Pat Medacki or Pablo about ramping up
17 the number of people or reducing the number of people,
18 going out and seeking more people. See what else?
19 Yeah. Those are all my administrative responsibilities.

20 Oh, also replacing people as needed. If --
21 if there was one or two instances where they did -- they
22 did not like a certain person, so we had to immediately
23 replace them. And there were times when they were
24 hiring our employees, and then we have to replace them
25 within a moment's notice. So those were all my

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1 administrative expenses.

2 Q. So your position is the liability that you
3 state that you were exposed to by having electricians
4 on-site and this administrative burden from billing and
5 collections, that justifies doubling the price that EMS
6 charged you?

7 A. Not just those two, but even the exposure to
8 any business interruption that could happen because of
9 these electricians working on Toshiba property.

10 I was also very, very concerned because
11 there were several times they would give us -- they
12 would give the guys printed -- circuit diagrams of
13 millions of dollars' worth of equipment that came from
14 Toshiba, and they swore to them that this -- this
15 information cannot leak. This is supposed to be very
16 confidential. So I was really concerned about all of
17 that. It's just a matter of time before one of the
18 electricians could take those drawings, take it
19 somewhere else then I would be sued for it.

20 So it was concern about people's debt,
21 concerned about business interruption, concerned about
22 damage to equipment, and the administrative headaches,
23 and the going market price back then based on what I
24 have documented and what I've paid other electrical
25 contractors up to \$80 an hour.

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1 Q. Was there ever an issue with damage to Toshiba
2 equipment?

3 A. Absolutely not.

4 Q. So is there anything else that you take into
5 account when you consider what your costs were from
6 having these journeymen electricians work at Toshiba?

7 A. Yes, there is.

8 Because they were working on the directions
9 of Toshiba employees, they were given equipments. I'm
10 not talking about the basic -- not the basic tools
11 but certain very highly specialized equipment that they
12 were using. They were exposed to being in very high
13 elevated areas on manlifts and cranes that I was not
14 there to oversee it or neither was my project manager.
15 So I -- I'm just at their mercy. So those were all my
16 concerns.

17 Q. And did you have an agreement with Brad Jackson
18 that you were taking on all of that liability?

19 A. Yes, he knew that.

20 Q. And was that formalized in some written
21 document with him?

22 A. It -- it was not.

23 Q. Because I would imagine that if you have those
24 concerns, then Brad Jackson would have those concerns,
25 too?

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1 A. But he never asked me for any formalized
2 contract.

3 Q. But, yet, he was still able to provide you with
4 those electricians at \$40 an hour for regular time and
5 \$60 for overtime, right?

6 A. Right. He was supplying me that.

7 Q. And could he have supplied them at that price
8 directly to Toshiba?

9 A. He could have, but he was not approached by
10 Toshiba.

11 Q. Did you have an indemnity agreement with
12 Brad Jackson and EMS?

13 A. I don't understand that question. Could you
14 rephrase that for me, please?

15 Q. Yes.

16 Did you have an agreement with EMS where if
17 there was some kind of claim against one of the
18 electricians brought by Toshiba that you would take full
19 responsibility, financial responsibility for that claim?

20 A. No. I did not have that agreement with EMS,
21 no.

22 Q. And do you know if EMS carried its own
23 insurance?

24 A. I believe they did, but it was very small.

25 Q. All right. Are there any other costs to

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1 OnePoint that you take into account that we haven't
2 discussed?

3 A. Yes, there is.

4 Because all the -- all the breakers, and
5 the disconnects, and all the electrical components, the
6 transformers, the variable frequency drives, and all
7 that was supplied by Toshiba to the electricians. And I
8 was, again, concerned that if any of those things
9 failed, I would have been blamed for damages to
10 equipment for something that I did not provide. It was
11 something that Toshiba provided my electricians.

12 Q. Okay. And did that ever happen?

13 A. Nothing happened fortunately.

14 Q. Okay. So how did you quantify your costs for
15 your portion of the administrative and risk of these
16 electricians for Toshiba?

17 A. Well, first of all, even before I quantify it,
18 when I saw what the market-going rate was, the market
19 rate was anywhere from 77 to \$80. So that was a fair
20 market price even at that time. And I have paid that
21 fair market price. I, myself, have paid that to other
22 electrical contractors. So I -- I did not think it was
23 out of line to charge that price.

24 Q. Well, isn't the EMS price the fair market rate?

25 A. I have no idea how EMS was giving me

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1 electrician at such low price, but that was -- that was
2 the price I got.

3 Q. And the price was pretty stable from 2007 to
4 2019, right?

5 A. That is correct.

6 Q. So what do you contend was your true profit
7 margin on the journeymen electricians?

8 A. I can't put a number to it.

9 Q. Did you make money off of them?

10 A. Yes, I did make money.

11 Q. Okay. Do you know how much money you made off
12 of them?

13 A. I don't know exactly how much.

14 You mean the entire total?

15 Q. Yes.

16 A. You're talking about actual total profits, or
17 you're talking about total invoices from Toshiba to me
18 during the entire time?

19 Q. I'm talking about how much money do you contend
20 you actually made from providing journeymen electricians
21 to Toshiba?

22 MR. DANIELS: I think it's confusing,
23 Counsel. It's between revenues and profits.

24 A. And I'm also getting confused of what periods
25 you are talking about.

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1 Are you talking about all the way from 2007
2 to 2019?

3 Q. (BY MR. FRIDMAN) Yes. I'm talking about the
4 entire period. But if there are periods that you are
5 more familiar with, then you can start there.

6 A. I can start from the initial -- during the
7 initial times, the revenues were much higher because in
8 the initial -- I'm going to say five or six years when
9 Toshiba was doing all kinds of expansions, they were
10 getting ready to get a big order from Ford for
11 hydroelectric plant. So at those time, I think we had
12 upwards of 8, 9, 10 electricians. So that was the
13 highest revenue periods. And then towards the latter
14 part, we were just down to two to three electricians
15 on-site when things slow down. But every once in a
16 while, it would spike up for a few times and then it
17 would go down again.

18 Q. Okay. So from 2011 to 2019, how much did you
19 make from journeymen electricians? We can start with a
20 revenue figure.

21 A. I -- I don't know the exact number. No, I
22 don't.

23 Q. Is it about \$6 million? Does that seem right?

24 A. 6 million from what -- from what period to what
25 period?

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1 Q. 2011 to 2019.

2 A. No, it's not.

3 Q. Okay. What is your sense of it?

4 A. My sense of the entire -- the entire cost
5 from 2007 to 2019, total cost, total actual invoicing
6 -- I'm just talking about the total invoicing is about 3
7 to \$4 million.

8 Q. Okay. And how much of that was profit to you?

9 A. I cannot -- I do not -- I don't know how much
10 of that was profit.

11 Q. Did you have a particular profit margin target
12 that you worked towards?

13 A. No.

14 For journeymen electricians or for any
15 project?

16 Q. We'll start with journeyman, and if there's a
17 difference with regular projects, you can tell me.

18 A. Okay.

19 Typically, I would say on a journeyman
20 electrician, I would -- I would try to go on the -- I
21 would err towards the higher side because of the risk
22 and exposure that I was exposed to.

23 Q. Okay. So what was your profit margin then?
24 What was your target?

25 A. I cannot come up with a profit margin number

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1 because there are too many variables on this job. So I
2 gave -- I gave Toshiba the prevailing rates that was
3 going on at that time based on medium-sized companies in
4 that area.

5 Q. Okay. So do you even know if you were making
6 money from the journeymen electricians?

7 A. I believe I was making money.

8 Q. Okay. You just don't know how much?

9 A. I just don't know how much.

10 Q. All right. What about for regular construction
11 work? What was your profit margin target?

12 A. That would also vary depending on the size of
13 the project, the complexity of the project, the -- the
14 risk associated with the project. So many factors. So
15 there is not a one-size-fits-all number that I use.

16 Q. Okay. Do you have a range?

17 A. I can't think of a range. Each project is
18 different from each other.

19 Q. So could it range from 10 percent to
20 100 percent?

21 A. It could be somewhere in between that.

22 Q. I'm -- I'm just asking what you used. And if
23 your answer is you don't use any target in particular,
24 then that's your answer. I just want -- I'm trying to
25 understand what you --

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1 A. Sure.

2 Q. -- what you typically --

3 A. We don't -- we don't have a one fixed number
4 for all profit margin. It varies from project to
5 project.

6 Q. Okay. When you price a project, do you try to
7 figure out your costs first?

8 A. I do.

9 Q. Do you solicit quotes from subcontractors?

10 A. In some cases, yes; some cases, no.

11 Q. Some cases, you know from your personal
12 experience what things cost, right?

13 A. That is correct.

14 Q. So once you get your cost for the project, do
15 you then decide how much money you're going to make from
16 it.

17 A. Yeah. I will -- I will come up with all the --
18 all the things that could go wrong on the project, what
19 could be -- I would throw in some contingencies in
20 there, and I would come up with a percentage.

21 Q. Okay. And was there a typical percentage you
22 would come up with?

23 A. No typical percentages. Typically, if you want
24 a typical -- if it was a small project, the project
25 slight -- would be slightly higher than for a very large

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1 project. Obviously, it would be slightly lesser.

2 Q. Okay. So I'm -- I'm just trying to get a sense
3 of what ballpark we're talking about. Are we talking
4 about 10 to 30 percent? Are we talking about 50 percent
5 to 70 percent?

6 MR. DANIELS: Object to the form.

7 A. I cannot come up with a percentage right now.
8 It depend -- you'll have to ask me about a specific job,
9 and then I can answer that.

10 Q. (BY MR. FRIDMAN) Okay. Well, I did. I asked
11 you about the journeymen electricians, but you couldn't
12 answer that one, right?

13 A. Because there was too many variables in there,
14 so I could not answer that.

15 Q. Okay. Did having fake bidders submit
16 complementary bids alongside OnePoint allow you to build
17 in a higher profit margin for OnePoint?

18 A. No. We gave Toshiba a fair market price
19 based -- and they accepted my base -- accepted my -- my
20 price, and we gave them a good quality work.

21 Q. But you agree that it was not a competitive
22 bidding process, right?

23 A. That is correct.

24 Q. It was just your bid and that -- that's what it
25 was?

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1 A. It was my bid, but I gave Toshiba a fair market
2 price based on -- and, obviously, Toshiba accepted the
3 price based on whatever budget they had in mind. So I
4 didn't even know what their budget was. But I gave them
5 a price and it was accepted, and I did not try to
6 increase my price just because I was giving
7 complementary bids.

8 Q. Although there were times where you lost bids
9 to KIT Construction, right?

10 A. I'm sure there was several times. Yes, I did
11 lose, yes.

12 Q. And your bids were higher than KIT
13 Construction's, right?

14 A. If I -- not necessarily. There was one where I
15 was lower than KIT's. In some cases, I was higher than
16 KIT's. And the cases where I was higher was where
17 Toshiba and Pablo did not give me the right scope of
18 work, and I -- based on what they told me and so my
19 numbers were higher.

20 And I also very clearly put in my proposal
21 that these are not bids, but these are budgetary
22 estimates.

23 Q. Okay. When you submitted those budgetary
24 estimates, were you trying to win the work?

25 A. Obviously, I would love to do all work at

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1 Toshiba. My intention was to do the job. My intention
2 was to get the job done right. And every time I bid on
3 all those jobs, yes, I wanted to get the jobs. And I
4 bid what I thought was a fair market price. But if
5 somebody does not get me a full set of documents, I
6 cannot give them -- I can just give them a budgetary
7 number.

8 Q. All right. I'm going to show you an exhibit in
9 just a moment. Okay. I'm going to show you Exhibit 60.
10 It's a document with Bates No. OnePoint16246. Just a
11 minute.

12 Do you see that document?

13 (Exhibit 60 marked.)

14 A. Yes, I do.

15 Q. (BY MR. FRIDMAN) All right. So this is a bill
16 from OnePoint to Toshiba?

17 A. Correct.

18 Q. For journeymen electricians, right?

19 A. Correct.

20 Q. And it is for work done throughout the
21 electrical plant -- electrical work done throughout the
22 plant from July 23rd, 2011, to August 5, 2011, right?

23 A. Correct.

24 Q. And the total for that work was seven
25 journeymen who worked 575 hours for regular time, right?

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1 A. Right.

2 Q. And 218 hours overtime?

3 A. Correct.

4 Q. And the total charge to Toshiba was \$72,200
5 plus \$5,234 in tax?

6 A. Correct.

7 Q. For a total of \$77,434, right?

8 A. And \$0.50.

9 Q. And \$0.50.

10 I'm going to show you Exhibit 61. Can you
11 see Exhibit 61?

12 (Exhibit 61 marked.)

13 A. Yes, I can.

14 Q. (BY MR. FRIDMAN) So this is an invoice or a
15 composite of two invoices sent by Electrical &
16 Mechanical Solutions, LLC and Brad Jackson for work done
17 at Toshiba from July 23rd, 2011, through July 29th,
18 2011.

19 Do you see that?

20 A. Correct.

21 Q. Whose handwriting is on this page?

22 A. This is Anne's handwriting.

23 Q. That's Anne's handwriting?

24 A. Correct.

25 Q. Okay. Does your handwriting appear anywhere on

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1 this page?

2 A. It does not.

3 Q. So did you instruct Anne on how to process
4 these invoices?

5 A. She knew what the rates was, and she was trying
6 to -- and she billed it based on those rates. The only
7 instruction that we received during the latter parts
8 was -- well, instructions -- I instructed her to make
9 the bills every two weeks because that's what TIC wanted
10 us to do. But then somewhere down the line, Pablo
11 called me and Anne and he said -- well, initially, they
12 would give us both POs and we would exhaust the POs and
13 we would get another PO and we would -- we could
14 not zero out the PO. So we would have some monies left
15 in the PO, and we would just leave it hanging and, you
16 know, just stop and go onto the next PO.

17 So since about 2007 to about 2011 or so,
18 11 years, we were -- we were always leaving some monies
19 left in the PO. But then one day, he got a call from
20 accounting telling him that -- that I need to close out
21 the PO 100 percent. So -- and we get -- and Anne -- I
22 didn't get into the details of all this calculation, and
23 Anne kept telling him that I can't close out exactly to
24 the penny because the hours are sometimes more than
25 what's left in the PO. So he said just go ahead and

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1 round it up and just go ahead round it up. And so she
2 was doing up the rounded up -- rounding up business.

3 So while that was going on, that was, I
4 think, around 2011 or 2012 or so. And I had asked --
5 and Anne told me that, hey, Pablo told me just round it
6 up. So I was under the impression in my head that --
7 that Anne was rounding it up and then on the back end,
8 she was taking it out. But I just found out very
9 recently when the expert brought it to our attention
10 that that -- that from the back end it was not coming
11 out. So I confronted Anne, and I asked Anne, why didn't
12 you start subtracting the ones that you added? She
13 said, well, Pablo told me just to do it. And then she
14 even told Pablo, hey, listen, this -- we're getting more
15 hours for something we have not done. He said don't
16 worry, I'll get Abraham to do miscellaneous repairs over
17 here and don't worry about it. So all that was just --
18 I just found out all that here just very, very recently.
19 So those are the facts.

20 Q. Okay. I -- I think you -- you anticipated a
21 question I was going to ask. My question was: What
22 were your instructions to Anne, and what I take it as
23 your answer is you told her to round up; is that it?

24 MR. DANIELS: Object to the form.

25 A. I -- I told her that all the POs should be

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1 billed in full, completely. Don't leave any monies in
2 the PO and I -- the other instruction was make sure you
3 send the bill every two weeks.

4 Q. (BY MR. FRIDMAN) Okay. So then let's look at
5 these notations here. Do you see that for Victor
6 Castro, there is 40 regular hours marked?

7 A. Right.

8 Q. And the invoice from Brad Jackson, and it's
9 got -- the 40 has a handwritten line through it, and it
10 says 48 above it?

11 A. Yep, I see that.

12 Q. And you see that same thing appears for
13 Pablo Martinez, Julio Dominguez, Shawn King, and Edrick
14 Archie, right?

15 A. Yes.

16 Q. Is that what you mean by rounding up?

17 A. No, that's not what I meant.

18 So I cannot explain what that is right
19 there. Sometimes she'll get a PO from Brad which is not
20 a corrected one and then he'll send a corrected one. We
21 had over 300 of these things come to us in the 13 years.
22 So just pulling out a number.

23 No. I did not instruct her to do that, and
24 that's not part of the rounding up.

25 Q. So when you see the same part on the second

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1 part of this invoice for August 1st, 2011, to August
2 5th, 2011, 40 has been crossed out and changed to 48 for
3 the hours?

4 A. Well, to me -- to me, it looks like it's been
5 changed from 40 to 8. So I don't know the -- the rhyme
6 or reason behind that. It's not 48 and based on what
7 I'm looking at.

8 Q. Okay. Well --

9 A. It's actually gone down. So I don't know --
10 this is the first time I'm seeing this.

11 Q. Okay. So it looks like what Anne has done is
12 she added up the regular hours --

13 A. Right.

14 Q. -- and we're on -- on the August 1st invoice --
15 at 40, and she came out with 240 hours.

16 A. Correct.

17 Q. That checks out, right? 6 times 40, 240?

18 A. Yeah, right.

19 Q. And then for overtime, she's got 18 hours of
20 overtime, and she comes out with 108.

21 A. Correct.

22 Q. All right. So that's consistent with the EMS'
23 invoice?

24 A. Correct.

25 Q. But then it looks like to the 240, she's added

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1 32. Do you see this number 272 times 80 here?

2 A. I do see that, yes.

3 Q. And that corresponds to adding eight four
4 times.

5 A. Oh, I see what you're saying. Okay. Got it.
6 Okay.

7 Q. You see that?

8 A. Yeah, I see that, yes.

9 Q. So what she's done is she's increased the
10 regular time hours by 32 hours and multiplied it by \$80
11 an hour, which is Toshiba's rate, right?

12 A. That is correct.

13 Q. And if you look above that, she has the
14 240 hours --

15 A. Correct.

16 Q. -- and multiplied it by the \$40 rate, which is
17 the actual --

18 A. Right.

19 Q. -- rate that EMS charged your company, right?

20 A. Right.

21 Q. So where did these extra 32 hours come from?

22 A. I cannot explain that. I really don't know the
23 answer to that. I did not instruct her to add any
24 hours.

25 Q. Okay. And if -- if you go to the same time

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1 period for the first page of Exhibit 61, July 23rd, you
2 see that she's done the same thing?

3 A. Correct. I see that, yep.

4 Q. So instead of 263.5 regular time hours, she's
5 come out with 303 regular time hours, right?

6 A. Right, correct.

7 Q. Because she added eight hours to -- one, two,
8 three, four, five -- five different people. So she
9 added an extra 40 hours of regular time?

10 A. Right.

11 Q. So an extra hours of 40 -- 40 hours on the
12 first invoice plus 32 hours on the second invoice is 72
13 extra hours that Toshiba was billed at \$80 an hour,
14 right?

15 A. Correct.

16 Q. And if you multiply that out -- can you see my
17 calculator on the screen?

18 A. No, I don't see it.

19 Q. No? Okay.

20 I get an extra \$5,760 billed to Toshiba.
21 Can you explain that to me?

22 A. Well, I cannot because I'm just looking at a
23 snapshot of a working copy of someone's -- I don't know
24 if -- if she ended up paying Brad more than what is
25 specified over here. So it's very -- then this looks

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1 like -- I cannot explain that. I don't know -- this is
2 the final numbers that went to Toshiba? Was this the
3 final invoice that we paid Brad?

4 Q. I'll put the invoice to Toshiba back.

5 A. Yeah, okay.

6 Q. Just -- just so we're clear here, we have 303
7 hours .5.

8 A. Right.

9 Q. Right?

10 Over here that includes the extra 40 hours
11 that she added.

12 A. Right.

13 Q. And then here we have 272 hours.

14 A. Right.

15 Q. That includes the extra 32 hours that she
16 added.

17 A. Right.

18 Q. And that should give us 575.5 hours, right?

19 A. Correct.

20 Q. So let's -- let's go back to Exhibit 60.

21 575.5 hours --

22 A. Right.

23 Q. -- of regular time were billed to Toshiba by
24 OnePoint?

25 Do you see that?

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1 A. I see that.

2 Q. Please explain why.

3 A. I just said a while ago. I cannot explain this
4 because I did not do this. I did not instruct her to --
5 there is some reason she was -- I kept asking her the
6 same question. She said that we were told to round it
7 up and finish the PO. I don't have an answer for this.
8 I really don't. This is the only one I'm going to be --
9 I don't have an answer. I don't know.

10 Q. Okay. Mr. Joseph?

11 A. Yeah.

12 Q. This is not -- this is not an anomaly. We do
13 see this happen over and over again over years including
14 as recently as 2019.

15 A. 2019, I did look at it. It was towards the
16 latter part where -- in fact, she has shown me several
17 invoices where we had even short-changed Toshiba. I'm
18 not the one who did the accounting. So I -- I cannot
19 speak for -- on behalf of this -- I really don't know
20 the answer to this.

21 Q. So you -- you have no explanation for me on --
22 on this?

23 A. Well, all I can say is that in the first six,
24 seven, eight years because everything was great, we had
25 monies left over. But I -- I don't have an explanation.

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1 Yes, I'm -- I really don't know.

2 Q. To -- to us, without any other information from
3 you, this looks like you're inflating your hours.

4 Do you understand why we think that?

5 MR. DANIELS: Object to the form.

6 Yes, you can answer.

7 A. If that's the way you take it. I don't know
8 what to say -- I -- I don't have an answer.

9 Q. (BY MR. FRIDMAN) All right. Because what
10 we're seeing is you're adding hours to Toshiba's invoice
11 without support.

12 A. I understand.

13 Q. So my question is, what is your explanation for
14 this?

15 MR. DANIELS: He -- he just told you he
16 doesn't have --

17 A. I -- I wish I had an answer. Believe me. I --
18 I didn't sleep over this thinking about this. I really
19 don't know and so is Anne. We just --

20 Q. (BY MR. FRIDMAN) Right.

21 A. Show off the rounding business, I don't know.
22 I really don't know.

23 Q. The extra \$5,760 plus tax that you billed to
24 Toshiba was pure profit for OnePoint, right?

25 A. If that was the case. It was an honest

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1 mistake. It was not a malicious intent and that's all I
2 can say.

3 Q. But it's a mistake that is repeated over and
4 over again every year?

5 A. Not all the way from 2007 to 2019.

6 Q. Okay. Well --

7 MR. DANIELS: I'm not --

8 MR. FRIDMAN: Yes.

9 MR. DANIELS: I'm not interrupting your
10 line of questioning. But when you get to a logical
11 break point, we've been going over an hour.

12 MR. FRIDMAN: Let's -- let's break now.
13 It's okay.

14 MR. DANIELS: We don't have to, but if it's
15 a good time, then let's take a break.

16 MR. FRIDMAN: I won't deny the witness a
17 break. So if -- if Mr. Joseph wants to take a break --

18 THE WITNESS: No. I want to -- want to
19 keep going.

20 MR. DANIELS: No, I'm the one requesting
21 it. I get it. But, again, I don't need it right this
22 minute. If you want to keep going on this line -- I
23 don't want to interrupt your line of questioning.

24 MR. FRIDMAN: I understand. Mr. Daniels,
25 if you need to take a break, let's take a break. Let's

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1 reconvene in seven minutes.

2 MR. DANIELS: Okay.

3 THE WITNESS: Okay. Thanks.

4 THE VIDEOGRAPHER: Okay. This now ends
5 Video 4 of Abraham Joseph. Off the record at 3:20.

6 (A break was taken from 3:20 p.m. to
7 3:30 p.m.)

8 THE VIDEOGRAPHER: Now, back on the record.
9 Video 5 of Abraham Joseph. The time is approximately
10 3:30.

11 Q. (BY MR. FRIDMAN) Okay. Mr. Joseph, I'm going
12 to show you Exhibit 63.

13 Do you see that on your screen?

14 (Exhibit 63 marked.)

15 A. Yes, I do.

16 Q. (BY MR. FRIDMAN) Okay. So this is an example
17 from 2019.

18 A. Okay.

19 Q. Exhibit 63 is a composite of two invoices from
20 Electrical & Mechanical Solutions to OnePoint covering
21 the time period from June 14, 2019, through June 27,
22 2019, for work at Toshiba.

23 Do you see that?

24 A. Yes.

25 Q. And you see that the billings for the first

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1 week are 40 regular hours and 20 overtime hours.

2 Do you see that?

3 A. Yes.

4 Q. And the second week was the same. 40 regular
5 hours and 20 overtime hours.

6 Do you see that?

7 A. Yes.

8 Q. So based on that, what would you expect
9 Toshiba's bill to -- to show for that period of time?

10 A. 80 regular hours and 40 overtime.

11 Q. Right.

12 So let's take a look at what happened in
13 this one. So the handwriting on this page, is this also
14 Anne?

15 A. Yes.

16 Q. So you see here, Anne does a calculation on the
17 right where she multiplies 40 by 80?

18 A. Right.

19 Q. And by 120, right?

20 A. Right.

21 Q. And then she has an arrow pointing down and she
22 does it again, 40 times 80, but then adds an extra
23 15 hours to the overtime and multiplies 35 by 120.

24 Do you see that?

25 A. Right. I see that, yeah.

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1 Q. And then if you go to the second week, she does
2 the same thing.

3 A. Correct.

4 Q. She takes the 20 hours of overtime and adds
5 another 15, multiplies it by 120.

6 A. Correct.

7 Q. Do you see that?

8 A. Right.

9 Q. So I'll show you the Toshiba bill, but it isn't
10 what we would expect. I'm showing you Exhibit 62, which
11 is the bill for the same period.

12 (Exhibit 62 marked.)

13 A. Right.

14 Q. (BY MR. FRIDMAN) June 14th to June 27th --

15 A. Correct.

16 Q. -- 2019.

17 Do you see that?

18 A. I see that.

19 Q. And it has 80 hours regular.

20 A. Right.

21 Q. Right?

22 Which is with EMS, right?

23 A. Right.

24 Q. And then 70 hours overtime.

25 A. Correct.

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1 Q. So it seems that Toshiba has been billed for an
2 extra 30 hours of overtime that aren't reflected in EMS'
3 invoice to OnePoint?

4 A. Correct.

5 Q. And then overtime is more expensive for
6 Toshiba, right?

7 A. Right.

8 Q. That's charged at a rate of \$120 an hour?

9 A. Yeah.

10 Q. So if there's an extra 30 hours of overtime at
11 \$120 an hour, that is an extra \$3,600 that Toshiba was
12 charged on this invoice plus tax in July of 2018, right?

13 A. Right.

14 Q. Can you explain why this extra 30 hours of
15 overtime was added?

16 A. So can you scroll down to her handwritten
17 notes? I just saw something on the right.

18 Q. Yes. I will go to --

19 A. Yeah.

20 Q. -- Exhibit 63. Okay.

21 A. Okay. So if you see to -- right where it says
22 Exhibit 0063 directly above it.

23 Q. Yes.

24 A. She has a note that says CF 15 hours overtime,
25 whatever that number is, okay?

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1 Q. Right.

2 A. I know -- I asked Anne and what she said was CF
3 means "carry forward." So I'm just throwing it out
4 there so that you see what that means, okay?

5 Q. Okay.

6 A. I don't know how to explain this. I don't have
7 an answer, and I really -- I really don't have an
8 answer. But I did not instruct her to add hours. I
9 know she was instructed to complete the PO to add hours
10 to complete the PO, but I was under the assumption that
11 she was taking and backing it out also, but that was not
12 happening and it was -- it wasn't a malicious intent to
13 cheat Toshiba or anything.

14 Q. Okay. So --

15 A. I don't have an answer for that. I really
16 don't.

17 Q. Okay. Well -- so now that you've learned about
18 this overbilling --

19 A. Correct.

20 Q. -- are you going to return the money to
21 Toshiba?

22 MR. DANIELS: Don't answer that.

23 Counsel, that's -- a deposition is not an
24 appropriate time to have that conversation.

25 MR. FRIDMAN: Okay.

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1 Q. (BY MR. FRIDMAN) You're not going to answer?

2 MR. DANIELS: Don't answer.

3 THE WITNESS: Okay.

4 Q. (BY MR. FRIDMAN) All right. But at least you
5 can see that the same problem that I pointed out to you
6 with the prior exhibits, 60 and 61, were occurring with
7 62 and 63 in 2019, right?

8 A. It did happen in this one case, but it was very
9 clean all the way. I mean, there was no -- none of
10 these issues all the way from 2007. If you're looking
11 at 90- -- I'm going to say a good 80 percent of them,
12 there's -- none of these problems are there. But -- so
13 it's not -- it's not a recurring thing all the way from
14 day one until 2019.

15 Q. So by -- by sending Toshiba these bills, how --
16 how would OnePoint typically send these journeymen
17 invoices to Toshiba in 2018?

18 A. I would hand-carry to them.

19 Q. Would you -- would Anne email them?

20 A. I don't think so. For the most part, I would
21 hand-carry it. She may have if -- if Paige or somebody
22 requested us to send a copy, she may have emailed it to
23 Paige, who's Pablo's assistant.

24 Q. How did you receive your payments from Toshiba?

25 A. It was mailed to us by checks.

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1 Q. You would receive a paper check, right?

2 A. Yes.

3 Q. And it was sent to you by Toshiba through U.S.
4 mail, right?

5 A. Correct.

6 Q. And that was true from 2007 through 2019,
7 right?

8 A. Right.

9 Q. Are you aware that Toshiba's expert report --
10 experts have gone through all these invoices and
11 calculated the overbilling of hours by OnePoint, right?

12 A. I believe so, yes.

13 Q. And that our experts came out with 882 hours
14 were overbilled for regular time and 705 hours -- sorry
15 -- 882 hours were overbilled for regular time and
16 705 hours were overbilled for overtime.

17 A. I did not know the exact hours. No, I did not.

18 Q. And the total, if you multiply it out, is
19 \$155,000. Were you aware of that?

20 A. I knew it was around 100,000. I think I read
21 it somewhere in the report.

22 Q. So do you have any explanation for this other
23 than it was -- that it was an attempt to overbill
24 Toshiba?

25 A. It was absolutely not an attempt to overbill

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1 Toshiba. I never instructed Anne to do that. I really
2 don't know what happened, and I also keep saying it was
3 an honest mistake. I really don't know the
4 circumstances. I did not do this billing, so I don't
5 know.

6 Q. And are you saying that this is explainable
7 based on a conversation that you say Pablo had with
8 Anne, or is this something different?

9 A. I don't have an answer. I guess Anne would be
10 the right person to probably answer if she has an
11 answer. I really don't know, but she did have a
12 conversation with Pablo, yes.

13 Q. All right.

14 All right. I'm going to put another
15 document on the screen.

16 MR. DANIELS: Will you call it out?

17 MR. FRIDMAN: Yeah.

18 It's going to be Exhibit 64.

19 (Exhibit 64 marked.)

20 Q. (BY MR. FRIDMAN) Can you see Exhibit 64 on the
21 screen?

22 A. Yes, I do.

23 Q. All right.

24 MR. DANIELS: Are you looking at the whole
25 thing?

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1 MR. FRIDMAN: Yes.

2 Tell me if I'm scrolling too quickly.

3 MR. DANIELS: I just wanted him to --

4 A. It's good. Keep going.

5 Q. (BY MR. FRIDMAN) Do you want me to keep going?

6 A. It's all of the same company?

7 Q. Yes.

8 I'm -- I'm only going to ask about the
9 first few documents.

10 A. Okay. That's fine. I'm okay with it.

11 Q. All right. Mr. Joseph, let me call your
12 attention to the first page of Exhibit 64, which is an
13 invoice from OnePoint to Toshiba dated March 1st, 2008,
14 for one line electrical diagram, professional services
15 from February 1st, 2008, to February 29th, 2008.

16 Do you see that?

17 A. Yes.

18 Q. Okay. Please tell me what this project was
19 about.

20 A. Okay. So this -- the -- Toshiba is such a old
21 facility that none of their electrical panels and
22 disconnects, and all the way coming from center point
23 power to the transformer, transformer to all the
24 distribution panels was completely -- there was no
25 proper labeling of any sort. So Pablo wanted us to

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1 build a brand new as-built joints showing what the
2 current conditions was. Drawings as in one-line diagram
3 which is -- that shows the location of the transformer,
4 the capacitors, the generators, the whole thing for the
5 entire -- however big the campus is, 10 acres, 20 acres.
6 So -- so he wanted the latest and greatest set of plans,
7 not for the layout of the plan, but it's for all the
8 electrical details all the way down to every little
9 circuit coming down from the power company down to the
10 last outlet.

11 Q. Okay. And how is that work typically done?

12 A. So there's several people involved in doing
13 this thing. So you would need -- at the very top, you
14 would need an electrical engineer, who would be, like,
15 the main person. Then under him, you will have some
16 journeymen electricians. Under him, you will have some
17 companies that specializes in scaffoldings and lifts
18 that goes to areas that you cannot reach because there
19 were some breaker panels; it goes way up there.

20 Then there's a lot of coordination with my
21 employees, we'll have to work with this whole team.
22 Coordination with each department, like if we would
23 bring something in the motor plant, we had to coordinate
24 with the motor plant when we could turn off the power.
25 Because in order to trace the lines, we have to turn off

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1 the breakers, identify the breakers, then we had another
2 team that did all the labeling. We had another team
3 that did all the -- the CAD drawings. So there was a
4 combination of several people involved in this thing.
5 And Telios is the one who's finally certifying and
6 checking what we are doing.

7 Q. And what -- so Telios, you mentioned, was one
8 of the subcontractors, right?

9 A. Right.

10 Q. Were there any other subcontractors involved in
11 this project?

12 A. We had to get -- well, there was several of my
13 employees on staff. There was some journeymen
14 electricians that I had to use, just to help the
15 engineers with the tracing of the circuits. We had to
16 rent equipments to -- we had to get somebody to do all
17 the drawings. We had to get another company to do all
18 the labeling and label all the panels. We had to put
19 together documents, and we submitted the whole thing to
20 Toshiba to take.

21 Q. So what were the names of the other
22 subcontractors that you used?

23 A. I may have used EMS electricians for some of
24 the other job, but I -- I don't -- I don't know the name
25 of the AutoCAD guy. I don't know the name of the --

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1 well, a lot of my employees were there. I don't know
2 the name of the company who did the labels. I -- I
3 don't recall all of them right now.

4 Q. Okay. Well, what we have here to support your
5 costs, because the invoice for February 2008 is a total
6 of \$26,580.

7 Do you see that?

8 A. I see that.

9 Q. And as support, we see an invoice from Telios
10 for MEP Engineering, one engineer at \$95 per hour for
11 44 hours.

12 Do you see that?

13 A. Right. I see that, yeah.

14 Q. And that is for the period of February 1st,
15 2008, to February 29th, 2008.

16 Do you see that?

17 A. I see that.

18 Q. And the total charge from Telios to OnePoint
19 was \$4,432?

20 A. That is correct.

21 Q. All right. So first question is, if you look
22 at the Telios invoice, which is at Bates label
23 OnePoint811, you see the engineer billed 44 hours from
24 Telios, right?

25 A. Right.

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1 Q. At \$95 an hour.

2 Did you have any other engineers working on
3 this?

4 A. I believe I do.

5 Q. Because when I go up here to MEP Engineering --

6 A. Right.

7 Q. -- I see a charge for 64 hours at --

8 A. Right.

9 Q. -- \$103 per hour.

10 A. Yes.

11 Q. So can you explain that to me? Is -- is that
12 another example of adding hours to work like what we saw
13 with EMS, or is there --

14 A. Now, this --

15 Q. -- another explanation?

16 A. The explanation is we also had EIT. Those are
17 engineers in training working directly for me. We had a
18 lot of other trades. This is -- the engineers was just
19 the one -- the final stamping and making sure everything
20 was done right. So that bill right there is a
21 combination of several activities, not just the --
22 engineers are not going to be crawling up and down and
23 going to the panels and that stuff. So we had a whole
24 bunch of other crew doing all that. They're just --
25 they're just certifying the job, and this job was done

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1 in several different phases.

2 Q. Right.

3 A. So this is not a direct bill just for Telios.
4 This is for a combination of all the people that I've
5 just mentioned earlier.

6 Q. All right. Do you have the support for the
7 other professionals that were billed on this bill to
8 Toshiba?

9 A. Can you repeat that question again?

10 Q. Yes.

11 So we -- we -- you have the Telios bill
12 here, right?

13 A. Correct. Right.

14 Q. Do you have the bills and backup documentation
15 to support the balance of the hours from the MEP
16 Engineering principal, the project engineer, the
17 administrative clerical, and the journeyman?

18 A. I do not have it with me, no.

19 Q. Do you have it at OnePoint?

20 A. I don't -- we gave -- whatever we had, we gave
21 it to our -- to our attorneys.

22 Q. Because I don't think we've seen anything to
23 support all these other hours that you billed Toshiba
24 for.

25 A. If it is not in the folder, it's -- it's not

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1 here.

2 Q. So -- and your position is that MEP Engineering
3 was not just Telios? There was another company?

4 A. There was several companies. There was a
5 company that does the AutoCAD drawing. There was a
6 company that does all the rigging for the lifts to get
7 to the higher locations. There was a company that did
8 the labeling. There was an electrician that would
9 coordinate with these guys to do the tracing of the
10 circuits. There was jobs involved with shutting down
11 plants to turn off breakers to identify the -- the
12 outlets. So there was, like, six or seven different
13 people involved in this whole thing.

14 Q. I understand.

15 My -- Mr. Joseph, my focus is on this one
16 line item here. (As read): "MEP Engineering:
17 principal, 64 hours."

18 Which company did that part of the job?

19 A. So all the ones that I've mentioned is all
20 lumped in that one invoice, all the -- the hours for all
21 that. I didn't break it down by an AutoCAD person or by
22 labeling guys, or I didn't break it down by the rigging
23 companies or anything.

24 Q. I -- I feel like we might be talking past each
25 other because you -- you have other line items here.

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1 You have project engineer. You have administrative,
2 clerical, and you have journeyman.

3 Do you see that?

4 A. Yeah, I see that.

5 Q. Okay. I am just focused on this first line.

6 And my impression is that that matches up with the
7 description from Telios, MEP Engineering engineer.

8 A. Correct.

9 I just said we also had some EIT engineers,
10 which is engineers in training who are not professional
11 engineers helping us on this job also.

12 Q. And they get billed out at the same \$140 hourly
13 rate as --

14 A. I don't --

15 Q. -- ones not in training from Telios?

16 A. I don't -- I don't remember what their -- the
17 rates were at that time. I don't know what I paid them.

18 Q. You're paying a project engineer -- you're
19 charging a project engineer here at 95, and I assume
20 that that's not an engineer in training either, right?

21 A. I -- I really don't know what that is. This
22 was in 2008 or -- and 2008 -- I -- I don't know the
23 answer to that. I can't recall.

24 Q. So as you sit here today, you can't explain the
25 discrepancy between MEP Engineering principal 64 hours

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1 at 140 per hour and the Telios bill?

2 A. No. I cannot explain something that happened
3 12 years ago. I really don't recall it. So I cannot
4 answer it.

5 Q. And you don't have -- other than what you've
6 given to the attorneys, you don't have anything else
7 to -- to provide to us to substantiate these charges?

8 A. That is correct. I do not have anything with
9 me.

10 Q. All right. Did you sometimes submit bills --
11 sorry -- strike that.

12 Did you sometimes submit bids to TIC using
13 Federal Express?

14 A. You mean as in FedEx?

15 Q. Yes.

16 A. I'm not understanding the question. Did I mail
17 something to them by FedEx?

18 Q. Yes. Did you ever mail bids to TIC using
19 FedEx?

20 A. That is correct. Yeah. I -- I may have done
21 about one or two projects where the requirement --
22 requirement was you send your proposal through FedEx,
23 yes.

24 (Exhibit 71 marked.)

25 Q. (BY MR. FRIDMAN) I'm going to show you

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1 Exhibit 71. So take a look at Exhibit 71. I'll give
2 you a chance to read it. And as you do, I'll describe
3 it. Exhibit 71 is Bates labeled TIC-91911, and it's an
4 email from Abraham Joseph to Anne Sam copying
5 Pablo D'Agostino, subject (as read): "Bid for Okanella
6 Warehouse door installation." Dated August 21st, 2007.

7 Do you see that?

8 A. I see that, yeah.

9 Q. So is this an example of the time that you
10 emailed the bid to Pablo?

11 A. I'm not even sure if this -- when I said to
12 Anne, please mail a hard copy to D'Agostino, I'm not
13 even sure if she mailed it by email or if she sends it
14 by regular U.S. mail. I -- I really don't know what
15 the -- this is -- this is not very common, but if that's
16 what Pablo requested, that's what I'm going to do.

17 Q. Okay. You see where it says "attachment"?

18 A. Yes.

19 Q. It says (as read): "570-07" --

20 A. Yes.

21 Q. -- "door install at Oakanella warehouse.doc."

22 A. Okay.

23 Q. And then here's the next document.

24 A. Okay. So it is an email then. Okay. Email
25 with an attachment, yes.

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1 Q. So that's an example of when you emailed a bid
2 to Pablo?

3 A. Correct. Which is not very, very common,
4 but -- but it's done as I can see it right now.

5 Q. Okay. Did you sometimes communicate with
6 Pablo D'Agostino using his personal email?

7 A. I -- I may have in few instances.

8 Q. And why would you do that?

9 A. Because he asked me to use his personal email
10 in some cases.

11 Q. Did he tell you which cases he wanted you to
12 use his personal email?

13 A. No. He did not specify it, but he just -- he
14 told me to send it to his personal emails.

15 (Exhibit 74 marked.)

16 Q. (BY MR. FRIDMAN) I'm going to show you
17 Exhibit 74. This is an email that Pablo forwarded to
18 his work account on November 4th, 2010, title "HEV bid,"
19 and it -- or it's an email from you, and it says (as
20 read): "Abraham Joseph to Abraham Joseph." Perhaps
21 Pablo was blind copied on this.

22 Do you know?

23 A. I don't remember.

24 Q. So it attaches an HEV building construction bid
25 from November 4th, 2010.

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1 Do you remember this?

2 A. I remember this.

3 Q. And the bid price you proposed is
4 \$2.349 million. You see that?

5 A. I see that, okay.

6 Q. It says (as read): "Due to our history of a
7 healthy working relationship between OnePoint and TIC,
8 we are offering a 6 percent discount and this is
9 reflected in the above pricing."

10 A. Okay.

11 Q. What does -- what does that mean?

12 A. Well, I'm just trying to get the job. So I'm
13 trying to tell them that I'm dropping my price down by
14 6 percent.

15 Q. Were you competing against other companies for
16 this bid?

17 A. Okay. So I don't know if this is a job that
18 I -- that I did this job or if I was just bidding it.
19 I -- I really don't know. I have to -- I don't know who
20 was competing again. But 2010, I was bidding
21 aggressively. 2010 and '11, all the way up to '19,
22 aggressively to get jobs that -- can you go back to the
23 very top? I want to read what my email said. Yeah,
24 right there.

25 Yeah, okay. All right. I read that file.

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1 Q. Okay. Does having read your email refresh your
2 memory about this?

3 A. Well, if he's trying to meet a target and I'm
4 trying to tell him that yeah, I'm trying to -- well, not
5 his target, whatever they're budgeted for -- I'm trying
6 to tell him that, hey, I've cut my numbers down, I'm
7 trying to -- down to the bare-bones and I'm offering TIC
8 a 6 percent discount.

9 Q. Okay.

10 A. And I have a feeling I did not even get this
11 job, so...

12 Q. So the final price that you had proposed here
13 to Pablo, which you sent to his personal email was about
14 \$2,349,000, right?

15 A. If it was sent to his personal email, that's
16 what it says.

17 Q. That's what it appears.

18 A. Okay. I didn't see his personal email address
19 anywhere.

20 Q. See where it says "from" and it says Pablo in
21 little letters and he's forwarding it to his TIC
22 account?

23 A. Right.

24 Q. All right.

25 A. I don't know if it says Pablo and that is his

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1 personal -- I really don't know what that email address
2 is.

3 Q. Okay. I'm going to show you Exhibit 75. Do
4 you see that?

5 (Exhibit 75 marked.)

6 A. Can you zoom it out a little bit?

7 Q. (BY MR. FRIDMAN) Okay. What I'm going to do
8 is I'm going to scroll through the document and let you
9 read it.

10 A. Okay.

11 Q. But it is an email chain dated December 17th,
12 2010, that has as an attachment a document called
13 "Latest HEV Building1.doc."

14 A. Okay.

15 Q. Do you see how it says from Abraham Joseph, and
16 it says ajoseph@onepointinc.com, right?

17 A. Right.

18 Q. Is that your work email?

19 A. Yes, it is.

20 Q. And it says "to Pablo." Do you see that?

21 A. Yes, I do.

22 Q. The email address to Pablo mm007pd@aol.com. Do
23 you see that?

24 A. Yes, I do.

25 Q. Was that a personal email address for Pablo?

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1 A. Yes, it is.

2 Q. That's not his Toshiba email address, right?

3 A. Right.

4 Q. So you sent this document to him to his
5 personal address, right?

6 A. Right.

7 Q. Is this the same bid that we were talking about
8 before HEV building? Is that the same project?

9 A. Well, here's the thing, again. The HEV
10 building had two phases. So I don't know which phase
11 this one deals with. I did one phase of the HEV
12 building.

13 Q. Okay. I'm happy to put the other one back on
14 to compare.

15 What I want to point out to you, though, is
16 if you look at the price, it's \$1 million more expensive
17 than the last bid we saw from you.

18 A. Okay.

19 Q. Right?

20 A. That's correct.

21 Q. This price is at \$3.328 million?

22 A. Right.

23 Q. And the other one was about \$2,349,000, right?

24 A. What was the date on the first one?

25 Q. All right. I'll go back to it.

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1 So the date on this bid is December 17th.

2 A. Okay.

3 Q. And on Exhibit 74, the date is November 4th,
4 2010.

5 A. Got it.

6 Q. And it says (as read): "New HEV building
7 construction."

8 A. Got it.

9 Q. So is this the same project?

10 A. If isn't -- yeah, I'm assuming it's the same
11 project, yes.

12 Q. And feel free to -- if you want to read the
13 scope of work on there.

14 A. Well, I'm just going by the dates. And it
15 seems like it is the same one for this -- within
16 two months from each other, so, yes.

17 Q. Okay. So in two months, the price that you
18 proposed went up about \$1 million, right?

19 A. It could go up to triple the price. It depends
20 on what -- what the scope of work is. Toshiba is
21 typical of not giving a complete set of drawings.
22 They're typical about changing their minds. They're
23 typical about adding to the job. They're typical about
24 reducing the scope of work. And then it has all to be
25 approved all the way up to Tokyo. So I've gone through

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1 these gyrations with them hundreds of times; back and
2 forth. So they'll say, oh, this is what we want to do
3 now. I'll give them a price. Two days later, they
4 said, we've decided not to do this. I will give them
5 another price. And it was just -- it was a constant
6 back forth. It could go by \$1 million, it could go by
7 \$2 million. On this HEV project, at one point, they
8 wanted the put elevators and then they decided not to
9 put elevators. Then they wanted to add the elevators,
10 so, yes, there was changes in pricing. And I've
11 qualified myself in a lot of those proposals, too, about
12 what the conditions were.

13 Q. All right. Do you recall winning this project?

14 A. I believe I did the first part of the HEV
15 project. Yes, I did.

16 Q. Okay. I'm going to show you Exhibit 76, which
17 is the purchase requisition form from Toshiba for the
18 HEV renovation.

19 Do you see that?

20 (Exhibit 76 marked.)

21 A. I see that, yes.

22 Q. (BY MR. FRIDMAN) And the final price was
23 \$3.793 million.

24 Do you see that?

25 A. I see that. I'm trying to look at the date

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1 also. This is about a year later from the initial
2 bidding almost. Maybe three, four months later, yes.

3 Q. Right. The requisition date is November 10th,
4 2011?

5 A. Right.

6 Q. The first date we looked at was from
7 November 2010, right?

8 A. Right.

9 Q. So a couple of months later?

10 A. Right.

11 Q. And do you see what other companies bid against
12 OnePoint for this project, right?

13 A. I see it now, but I did know at that time about
14 the other three companies.

15 Q. Do you see A & A Premier Builders?

16 A. Yes, I do.

17 Q. So was this one of the bids that you prepared?

18 A. No. This was the one I identified as them
19 actually bidding on it.

20 Q. Okay. And Millenium Construction, is that one
21 of your fake bids, or is that real Millenium
22 Construction?

23 A. If -- if there is a document in there, I would
24 like to see that on Millenium Construction.

25 Q. Okay. I believe they're all the way at the

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1 end. I'm going to scroll all the way down.

2 The other companies on there, Parsons.

3 Have you ever heard of Parsons?

4 A. Never heard of them.

5 Q. And Pace --

6 A. Never heard of them.

7 Q. Do you know Pace Construction?

8 A. Never heard of them.

9 Q. Did you know that Cris Parsons was related to
10 Pablo's ex-wife?

11 Did you know that?

12 A. I had no -- I had no idea.

13 Q. And did you know that Cris Parsons worked at
14 Bill Pace's gun store?

15 A. I don't know anything about this gun store.

16 Now, I have seen his name appear in one of
17 these, I guess, legal paperworks, yeah.

18 THE CERTIFIED STENOGRAPHER: I'm sorry to
19 interrupt but this is Abby, and I was kicked out. So
20 the last question I got was, "And the Millenium
21 Construction, is that one of your fake bids, or is that
22 a real Millenium Construction?"

23 MR. FRIDMAN: Okay. We've got the
24 videotape, right? Could you pick it up off of there?
25 Should we -- should we go off the record and talk about

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1 this for a minute?

2 THE CERTIFIED STENOGRAPHER: Yeah. Yeah.

3 Let's go off the record for just a minute.

4 THE VIDEOGRAPHER: Okay. We're now going
5 off the record. The time is approximately 4:11.

6 (A break was taken from 4:12 p.m. to
7 4:21 p.m.)

8 THE VIDEOGRAPHER: Back on the record.
9 Video 6 of Abraham Joseph. The time is approximately
10 4:21.

11 Q. (BY MR. FRIDMAN) Mr. Joseph, you asked to see
12 the Millenium part of this bid package, so I've had it
13 up on the screen for you.

14 Do you see it?

15 A. I don't see it yet.

16 Q. Well --

17 A. I see a vendor confidentiality agreement.

18 Q. Okay. Yes. You're seeing the beginning of it.
19 Do you see how it says Millenium on the top?

20 A. Yes.

21 Q. Okay.

22 A. I can't read the second -- okay, go ahead.

23 Q. I'm going to scroll to it.

24 A. Okay. All right.

25 Q. Do you know David Williams?

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1 A. No, I don't.

2 Q. We're on --

3 A. I don't --

4 Q. Okay. We're on TIC-10848, and there's a
5 business card for David F. Williams from Millenium
6 Project Solutions?

7 A. I don't know him.

8 Q. And you don't know this company, right?

9 A. Never heard of it.

10 Q. Does Mr. Kurian's Millenium Performance company
11 actually do any type of work?

12 A. With this company?

13 Q. No. Putting this company aside for a moment.

14 A. Okay.

15 Q. Mr. Kurian's company, are -- are you aware
16 whether it is engaged in any business at all at any
17 time?

18 A. They may have been back in 2007/2008, yes.

19 Q. Do you know what kind of work the company did?

20 A. Oh, I really don't know.

21 Q. Okay. And then we see the bid from A & A
22 Premier Builders?

23 A. That is correct.

24 Q. All right. Do you know Strive Concepts?

25 A. I do not know them.

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1 Q. You've never heard of this company?

2 A. Only after the lawsuit, yes.

3 Q. Do you know a person named Vinh Dang?

4 V-I-N-H --

5 A. I don't. I do not.

6 Q. Okay. All right. I'm going to put this
7 document away unless there's anything else on this that
8 you want to share.

9 A. Nothing to share.

10 Q. Okay. I want to talk, Mr. Joseph, about
11 Sudhakar Kalaga.

12 When did you first meet Sudhakar Kalaga?

13 A. I think in 2006.

14 Q. And how did you meet him?

15 A. I met him in the Society of Engineers meetings.

16 Q. What is the Society of Engineers?

17 A. It's a group of engineers from the local
18 Houston area. It's a professional group of engineers.

19 Q. Are you an engineer?

20 A. I'm not a professional engineer. I don't have
21 my PE license, but I am an engineer.

22 Q. You're an engineer by education?

23 A. By education.

24 Q. Okay. Tell me about that. What is your --

25 A. Well, I've done my electrical and mechanical

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1 engineering from India. And then I've done piping and
2 processing engineering from the University of Houston
3 here in Houston.

4 Q. Were you active in this group of engineers?

5 A. Yes. I served on the board, and I was also the
6 president.

7 Q. How about Mr. Kalaga? Was he active, as well?

8 A. I -- I don't know if he served on the board,
9 but he was -- I've seen him a few times, four or five
10 times in those meetings, yes.

11 Q. Do you know what the official organization name
12 of the organization is?

13 A. ASIE.

14 Q. What does that mean?

15 A. American Society of Indo-American Engineers
16 {sic}.

17 Q. Do you know a Chetan Vyas?

18 A. Yes, I do.

19 Q. Did you meet him at a meeting of that group?

20 A. Yes, I do.

21 Q. Do you know Ravi from Geotest Engineering?

22 A. I've met him a couple of times. I don't know
23 him personally.

24 Q. You've never done business with him?

25 A. I don't believe so, no.

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1 Q. Were you responsible for introducing Mr. Kalaga
2 to Pablo D'Agostino?

3 A. Yes.

4 Pablo asked me for three engineering
5 companies, and he was one of them.

6 Q. At the time that you introduced Mr. Kalaga to
7 Pablo, what type of work was Mr. Kalaga doing?

8 A. He was specializing in drainage projects,
9 retention ponds. Anything to do with the county and the
10 city for hydraulic, those kinds of things. Civil
11 engineering-type work.

12 Q. What was the name of his company?

13 A. KITS.

14 Q. KITS?

15 A. Correct.

16 Q. Were they also known as KIT Professionals?

17 A. That's correct. KIT Professionals.

18 Q. Did KIT Professionals do construction?

19 A. I -- I did not know they were doing
20 construction.

21 Q. All right. Do you remember, approximately,
22 when you first introduced Pablo D'Agostino to
23 Mr. Kalaga?

24 A. Yeah, around 2008/2009. In that time frame.

25 Q. I'm going to show you an email.

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1 A. Yeah.

2 Q. Exhibit 77. Can you see that?

3 (Exhibit 77 marked.)

4 A. Let me get my glasses.

5 Yes, I see it. Can you -- can you blow
6 that up a little bit more, please?

7 Q. (BY MR. FRIDMAN) How's that?

8 A. Yes, I see it. Much better.

9 Q. So it is an email chain between you and
10 Mr. Kalaga and Mr. D'Agostino.

11 Do you see that?

12 A. I see that.

13 Q. And I'll scroll to the end so you could see the
14 whole chain.

15 A. Okay.

16 Q. So you see it -- it begins with an email from
17 you to Mr. Kalaga copying Pablo.

18 A. Correct.

19 Q. Subject of the meeting is "Meeting" -- the
20 subject of the email is, "Meeting with corporate
21 facilities manager at Toshiba." The date is January 8,
22 2008.

23 Do you see that?

24 A. I see that.

25 Q. Was this the first time that you introduced

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1 Pablo to Mr. Kalaga?

2 A. I would think so, yes.

3 Q. Do you -- do you recall this meeting?

4 A. I don't recall it now.

5 Q. So what happened after your meeting with
6 Pablo D'Agostino and Sudhakar Kalaga?

7 A. This --

8 MR. DANIELS: Let me object to the form,
9 but you can answer.

10 A. So we had some problems on that control plant
11 expansion building, and there was some issues with water
12 plumbing. So that's when Pablo asked me to respond to
13 it, and I told him I don't have the expertise to do all
14 these kind of jobs. So he said, can you make some
15 recommendations? I gave three company names and
16 Sudhakar was -- KIT was one of them. I think he spoke
17 to all three companies. And then he told me to set up
18 this meeting with Sudhakar, and then KIT and Pablo was
19 working on doing the -- whatever they had to do for the
20 retention pond and stuff like that.

21 Q. (BY MR. FRIDMAN) Okay. And that was the
22 first?

23 A. That is correct. That would be the first one,
24 yes.

25 Q. Were there other projects that you worked on

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1 together with Mr. Kalaga together at Toshiba?

2 A. Yes, I did.

3 Q. Okay. Can you identify the other projects?

4 A. Anytime there's a project that involves civil
5 engineering matters or structural engineering because he
6 has a group of structural engineers, I would sway out of
7 that because that's not my expertise, and I didn't want
8 to stick my neck out on the line. So Pablo would call
9 him directly to do all the design calculations and come
10 up with the drawings. And he would tell me to work
11 closely with him while I do the -- the guy for doing the
12 repairs, he's the one coming up with the designs. So
13 there was two or three instances where I worked with him
14 on some projects. Where he did the engineering and I
15 did the construction.

16 Q. Do you remember the names of the projects?

17 A. I recall -- there was one -- there was a canopy
18 that we were going to build for Toshiba, and there was
19 some concerns about how strong it should be anchored to
20 the floor concerning the hurricane situation. So he --
21 he came up with the design for that. There was another
22 structural engineering wall that was either failing or
23 cracking. So he came up with the design for that one,
24 and he also was involved in the HEV project that we
25 finished , but he got involved at the -- at the very

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1 tail end of it to do all the as-built drawings for the
2 fire marshal's -- for the fire marshal's office.

3 Q. Okay. Do you remember a predominant use study?

4 A. I saw that, in this case, yes.

5 Q. You didn't remember it before you saw it in
6 this case?

7 A. I don't remember it at all.

8 Q. Okay. All right. Let me show you a document
9 and you can let us know if it refreshes --

10 A. Okay.

11 Q. -- your memory.

12 I'm going to show you Exhibit 78. And
13 Exhibit 78 is an email chain between you and Mr. Kalaga
14 dated November 3rd, 2010, titled "Predominant Use Study
15 Proposal." I'm -- I'm going to go to the end of this
16 chain and then scroll up, so you could see the entire
17 document.

18 You tell me to stop if you need to read
19 this.

20 (Exhibit 78 marked.)

21 A. Can you stop right there? Can you go down a
22 little bit? Keep going down. Okay. I got it. Okay.

23 Q. (BY MR. FRIDMAN) Okay.

24 A. All right.

25 Q. I'll show you the rest of the emails. You see

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1 it?

2 A. I see it, yeah.

3 Q. Okay. So let's start with the proposal that's
4 attached at the very end.

5 Do you know who Vinod Vemparala is?

6 A. I do not know him.

7 Q. Have you ever spoken to him before?

8 A. Never spoke to him.

9 Q. Do you know what V2V Solutions is?

10 A. I have no idea.

11 Q. So if you look at -- and I'll give you the
12 Bates number KIT_CIVIL_119331. You see an email from
13 Sudhakar Kalaga to you attaching the email that
14 Mr. Vemparala sent to Pablo D'Agostino with the
15 proposal.

16 Do you see that?

17 A. I see from -- yes, I see that, yes.

18 Q. And Mr. Kalaga writes to you (as read): "FYI,
19 second proposal."

20 A. Okay.

21 Q. Was this because you had asked him to obtain
22 multiple complementary bids for this project?

23 A. No, I did not.

24 Q. Do you know who did?

25 A. I have no idea who did. Who's the second

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1 proposal, I have no idea.

2 Q. And why is Mr. Kalaga sending this to you as an
3 FYI as second proposal?

4 A. Okay. So now that I've read the actual
5 proposal. So this was something that Pablo said that
6 they were going to do a study, and he found an expert
7 who can save a lot of money in their consumption of gas
8 or electricity, which is not my expertise at all. I --
9 I know nothing about it. So in order to do this -- and
10 I was already in Toshiba for the last three years. I
11 was very, very well-versed with the -- the layout of
12 Toshiba.

13 He copied me to make sure that I am in the
14 loop because I knew the location of all the gas meters.
15 I knew the location of all the generators. I knew the
16 location of all the five KV8 transformer locations. So
17 I was very knowledgeable about the whole layout. So I
18 was going to help them with the -- with all the -- the
19 details -- technical details if they wanted it. But I'm
20 not an expert on this. So he must have copied me on
21 this, so I could assist them in showing where all the
22 things were.

23 Q. So if V2V Solutions was the second proposal,
24 what was the first proposal?

25 A. I -- I have no idea what the first proposal

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1 was. I really don't.

2 Q. Was that the KIT proposal?

3 A. I cannot speculate. I only know for a fact
4 that I did not bid on this job because this is not my
5 expertise.

6 Q. Okay. So further up in the chain, we go to
7 KIT_CIVIL_66004. You respond to the second proposal
8 email from Mr. Kalaga, and you say (as read): "Great.
9 Hand-deliver to him."

10 What did you mean by that?

11 A. I told him -- basically, I'm telling him you
12 deal with him directly. I -- I don't -- this is not my
13 specialty. I don't do this thing, and you work with him
14 directly.

15 Q. It seems --

16 A. I was --

17 Q. Go ahead.

18 A. I said, I was -- I was more than happy to help
19 them with any, you know, of the layout of the land, but
20 I did not bid on it, and I told them to hand it over to
21 Pablo.

22 Q. Well, it seems from this email that you are
23 giving Mr. Kalaga orders or -- or direction on what to
24 do.

25 MR. DANIELS: Objection.

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1 Q. (BY MR. FRIDMAN) Is that accurate?

2 A. I'm not ordering him. I did -- I did not
3 demand him. He -- he may have called me and said, hey,
4 should I email this? I don't -- I don't know what the
5 context was back in 2010, but if I told him to
6 hand-deliver it, that's what I told him. Why I told him
7 to do that, I don't know.

8 Q. Okay. And then Mr. Kalaga responds to you and
9 says (as read): "The guy is in Ohio. He sent an email
10 to him. Did I mess up?"

11 So why is Mr. Kalaga asking you if he
12 messed up?

13 MR. DANIELS: Objection. Form.

14 A. I have no idea why he's asking me that
15 question.

16 Q. (BY MR. FRIDMAN) Were you instructing
17 Mr. Kalaga on how to submit complementary bids?

18 A. Absolutely not.

19 Q. Because you are aware that V2V Solutions was a
20 company that had a similar function to A & A Premier
21 Builders and Millenium Performance. It was a fake
22 bidder.

23 Are you aware of that?

24 MR. HUSTON: Object to the form.

25 MR. DANIELS: Objection. Form.

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1 A. I don't know if they were fake or real. I know
2 nothing about V2V.

3 (Reporter clarification.)

4 MR. HUSTON: This is Penn Huston. I
5 objected to the form.

6 THE CERTIFIED STENOGRAPHER: Thank you.

7 MR. DANIELS: And I followed up with his
8 objection. And to avoid this problem -- it's late in
9 the depo to be doing this -- but can we just from now on
10 have an objection -- agreement that an objection as to
11 one is good as to all?

12 MR. FRIDMAN: Yes, of course.

13 MR. HUSTON: Thank you.

14 Q. (BY MR. FRIDMAN) All right. So -- and then
15 you respond to Mr. Kalaga (as read): "Okay. All is
16 good."

17 Why did you tell him that?

18 A. That's my standard thing -- that's my standard
19 phrase in law of communication. I say all is good. All
20 is good. That's how I respond to most of my
21 communications.

22 Q. Even though Mr. Kalaga didn't hand-deliver the
23 V2V proposal to Pablo D'Agostino, your view was that it
24 was okay; all is good; is that right?

25 A. I don't even know if he hand-delivered it to

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1 Pablo or not. I have no idea if he delivered it or not
2 delivered it.

3 Q. All right. So it's your position that you were
4 not giving direction or instruction to Mr. Kalaga on
5 what to do; is that right?

6 A. Absolutely. I'm not giving any directions to
7 him.

8 Q. Let me show you another document, Exhibit 79.
9 All right. Exhibit 79 is an email chain. It start with
10 Bates No. KIT_CIVIL_79020, and it starts at the top with
11 an email from you to Mr. Kalaga dated January 26, 2009,
12 and it says (as read): "Proposal for structural
13 engineering report."

14 Do you see that?

15 A. I see that.

16 Q. All right. Let me start at the bottom to give
17 you an opportunity to read the email.

18 A. Okay. Can you keep scrolling?

19 Q. Have you had a chance to read it?

20 A. Yes, I did.

21 Q. All right. So the project that's being
22 discussed in this email is the concrete drainage
23 channel.

24 A. Right.

25 Q. Right?

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1 A. Yes.

2 Q. Do you remember this project?

3 A. Yes, I do.

4 Q. Okay. Tell me what this project was.

5 A. So they had some issues with some water --
6 water infiltration -- no, wait a minute. Yes, yes.
7 Water infiltration in some of the buildings, and they
8 were trying to design a channel so that they could route
9 the water in a different direction of the building and
10 also Pablo asked -- showed me the project first. I told
11 them this is not my expertise. I can do the repairs if
12 someone will come up with the -- with the engineering
13 for this. We can do the repairs for it. We can do the
14 correction for it.

15 So he showed me the project. I -- I
16 believe I must have shown -- me, Pablo, and Sudhakar
17 must have seen the project together. And for some
18 reason, Sudhakar copied me on it, and I -- and I told
19 him I don't -- no, well, he said that he met the
20 representative from OnePoint. I didn't want to stick my
21 neck on the line because I'm not a structural engineer.
22 So basically, I'm telling him to take my name out of it.
23 If you want to put the TIC rep's name, that's okay. I
24 don't want to be responsible for something that he
25 designed and used me because that's not my expertise,

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1 and that's what this whole thing is about.

2 Q. So you think by being cc'd on an email you're
3 taking responsibility for work that Mr. Kalaga did?

4 A. No. Because he clearly says -- on his
5 proposal, it says something about I met representatives
6 from OnePoint. So he's basically saying that he took
7 orders from me.

8 Q. Okay. So --

9 A. And I'm not willing to take that risk.

10 Q. If you go to the last email on the chain, which
11 is at KIT_CIVIL_65818. Mr. Kalaga writes an email to
12 Pablo and copies you in on the email, right?

13 A. I see that, yes.

14 Q. And he says (as read): "Please find the
15 attached proposal to provide professional structural
16 engineering services" --

17 A. Correct.

18 Q. -- "for the evaluation of resisting cracks."

19 Do you see that?

20 A. Right. I see that, yes.

21 Q. And then you respond just to Mr. Kalaga (as
22 read): "Do not cc me, but bcc me instead."

23 A. Yes, I did.

24 Q. Why did you instruct him to that?

25 A. Because I had a very strong feeling that if I

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1 was going to be doing this job, I wanted to be very
2 involved in this project. I wanted to see what the
3 scope of his design was, and I want to be mentally
4 prepared for this job.

5 Q. Why did you want Mr. Kalaga to bcc you?

6 MR. DANIELS: Objection.

7 A. Because if he was to copy me on this, and if he
8 was to use the language that based on meeting that
9 OnePoint rep, I did not want to be associated with any
10 responsibilities on that job. I don't mind being bcc'd
11 so I can -- I would know what the scope of work is so I
12 was -- I would be at the curve to start taking care of
13 that problem.

14 Q. (BY MR. FRIDMAN) Is that something Mr. Kalaga
15 did often? He bcc'd you on emails?

16 A. I had very, very, very limited emails with
17 Kalaga.

18 Q. How many times did he bcc you on emails?

19 A. I -- I don't know.

20 Q. And then at the top of the -- the chain, you
21 tell him to resend his email, and then you write (as
22 read): "Ask him to delete earlier email, remove met
23 with OnePoint, Inc. Do this ASAP."

24 When you --

25 A. Correct. But -- go ahead.

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1 Q. When you say "ask him to delete earlier email,"
2 is the "him" you're referring to Pablo D'Agostino?

3 A. I -- I really don't know who I'm referring to
4 over there. I do not recall.

5 Q. Who else could it be?

6 A. I -- okay. I don't want to speculate. It
7 could be somebody from his office who sent that email
8 with -- saying that that was there. I don't know.

9 Q. So is this an example of you giving Mr. Kalaga
10 instructions on how to deal with Toshiba?

11 A. No, this is not an example. This is
12 communication between two professionals. I'm telling
13 him exactly what to do. Do not include me in a
14 structural design that I'm not involved in.

15 Q. Well, you're telling him to delete emails,
16 right?

17 MR. DANIELS: Objection to the form.

18 A. I'm asking him to delete the emails where he
19 used the words "met representative from OnePoint, Inc.,"
20 which I did not like the language.

21 (Exhibit 80 marked.)

22 Q. (BY MR. FRIDMAN) Going to show you Exhibit 80.
23 I'm going to show it to you on your screen now.

24 Exhibit 80 is a composite of various emails
25 that we've put together. They are generally unrelated

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1 to each other, but I want to show you some of them.

2 So the first email, you have
3 Pablo D'Agostino bcc'ing you on an email with Chaffin
4 Associates.

5 Do you see that?

6 A. Yes, I did see that.

7 Q. Why was he bcc'ing you?

8 MR. DANIELS: Objection to form.

9 A. Can I read the contents of the email?

10 MR. DANIELS: There's no Bates on this,
11 Counsel.

12 MR. FRIDMAN: Sorry, say that again.

13 MR. DANIELS: There's no Bates numbering on
14 this. When was this produced?

15 MR. FRIDMAN: I'd have to ask my team about
16 it.

17 MR. DANIELS: Well, I'm not prepared to let
18 him go forward -- okay, here we go. Here we go.

19 MR. FRIDMAN: All right. Oh, here's what
20 it is. I think I understand what -- what this is. So
21 in order to be able to see a bcc. We've -- we've
22 produced all documents to you in their -- in their
23 native form. To print out an email that has a bcc, you
24 have to print it out as a text document, not as the way
25 it was displayed in Outlook.

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1 MR. HUSTON: Okay.

2 MR. FRIDMAN: So my -- my co-counsel --
3 correct me if I'm wrong -- but these are -- these are
4 text extracts from the emails to show the bcc line, but
5 they have been produced to you before.

6 MR. DANIELS: Okay. On that
7 representation, then I'll let -- I'll let you proceed to
8 ask him about the ones with number.

9 MR. FRIDMAN: Right.

10 Q. (BY MR. FRIDMAN) Okay. So, Mr. Joseph, I'm
11 going to let you read this chain, okay?

12 A. Okay.

13 MR. HUSTON: Objection to the form.

14 A. Yeah, you can scroll down.

15 MR. DANIELS: You skipped one, Dan.

16 THE WITNESS: Oh, yeah.

17 A. Okay.

18 Q. (BY MR. FRIDMAN) And my question is, why is
19 Pablo D'Agostino bcc'ing you on this email?

20 MR. DANIELS: Objection to form.

21 MR. HUSTON: Objection.

22 A. I have no idea why he is bcc'ing me on this
23 one. And I know who Chaffin is; he's the architect that
24 was hired by Toshiba.

25 Q. (BY MR. FRIDMAN) I'm not going to ask you

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1 about all the ones we have here. So I'm going to skip
2 to the next one.

3 So the first one I'm showing you is an
4 email from Sudhakar Kalaga dated January 26, 2009, to
5 Pablo D'Agostino where you are bcc'd, and it says (as
6 read): "Proposal for structural engineering report."

7 Do you see that?

8 A. Yeah, I see that.

9 Q. Do you know why you are bcc'd here?

10 A. If -- if this is pertaining to the earlier
11 email where he's attaching a proposal, by removing that
12 words, then he's following my instructions where I told
13 him to bcc me --

14 Q. Okay. So Mr. Kalaga --

15 A. -- if that's the same thing.

16 Q. Mr. Kalaga followed your instruction, right?

17 A. He didn't follow my -- I -- I had issues with
18 him using the language where he said that he met
19 representatives from OnePoint, and I told him to remove
20 the word, and I told him to bcc me so I would be in the
21 loop. So I would -- if I was to do the construction, I
22 would be ahead of the curve, and I would like to see
23 what design he's coming up with.

24 Q. Okay. I've gone to -- forward and skipped a
25 couple of emails. And now, we're looking at one from

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1 Sudhakar Kalaga to Pablo D'Agostino on January 30th,
2 2009, where you are bcc'd, and it's -- the subject is
3 (as read): "Letter report for the damage done to
4 support column by a forklift at Toshiba warehouse."

5 Do you see that?

6 A. I see that.

7 Q. You are bcc'd on this email. What is your
8 explanation for that?

9 A. I have no explanation. I don't know why he
10 bcc'd me on this one.

11 Q. Did you ask Mr. Kalaga to keep you copied into
12 emails with Pablo D'Agostino?

13 A. I don't recall. No, I did not.

14 Q. Did you ever tell Mr. Kalaga to stop bcc'ing
15 you on communications involving Pablo D'Agostino?

16 A. I did not tell him that.

17 MR. FRIDMAN: And, Mr. Daniels, for
18 clarification, I think the way we have this setup is you
19 have the text extract and then --

20 MR. DANIELS: I see what you did.

21 MR. FRIDMAN: Yeah.

22 MR. DANIELS: I see what you did.

23 MR. FRIDMAN: All right.

24 Q. (BY MR. FRIDMAN) Here's another one. This one
25 is from Mr. Kalaga to Pablo D'Agostino from

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1 February 3rd, 2009, bcc'ing you, again, about the
2 engineering report for the damage done to the support
3 column.

4 A. I have no idea why he bcc'd me.

5 Q. Do you recall this?

6 A. I recall this particular project, yes.

7 Q. What do you remember?

8 A. I remember there was a forklift that knocked
9 one of the column supports, yes.

10 Q. Was that damage caused by OnePoint or another
11 company?

12 A. It was caused by the Toshiba drivers in the
13 loading dock area.

14 Q. Did OnePoint have to fix the damage?

15 A. I don't remember exactly. I don't remember.

16 Q. All right. I'm showing you another email from
17 Mr. Kalaga to Pablo D'Agostino where you are bcc'd,
18 dated February 3rd, 2009. This one is attaching an
19 engineering report for existing cracks in the precast
20 concrete panel at the stairwell.

21 A. I believe this was the same one we were talking
22 about earlier.

23 Q. This is -- you think this is the same email we
24 just --

25 A. I believe so.

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1 Well, it's the same context of the same
2 email about the concrete where water percolation was
3 happening.

4 Q. This -- this is damage done to the support
5 column.

6 A. No, no. Earlier than that, we were talking
7 about another structural --

8 Q. Okay. Did you ask Mr. Kalaga to keep you bcc'd
9 with Pablo D'Agostino?

10 A. Now, again, if you are talking about the one
11 that we talked about earlier, this is the same one. I
12 did tell him to bcc just that one -- particular one.

13 Q. Okay.

14 A. So this is appearing twice. So I don't want
15 to...

16 Q. Here's another example. This one's from
17 February 4th, where you are bcc'd once again with the
18 revised engineering report.

19 Do you see that?

20 A. I see that.

21 Q. I'm going to scroll down a little bit more.

22 Now, I'm on an email dated March 10th,
23 2009, from Sudhakar Kalaga to Pablo D'Agostino where you
24 are bcc'd, and it is a proposal for structural field
25 investigation and engineering report for the shipping

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1 area.

2 Do you see that?

3 A. I see that.

4 MR. DANIELS: What -- what page of the
5 exhibit are you on?

6 MR. FRIDMAN: I can't tell the page. Maybe
7 it's --

8 MR. DANIELS: There's no way -- I mean,
9 we've got no Bates numbers. We've got an 80-page
10 document. You're scrolling through it. It's not even
11 one document. It's a whole bunch of documents collected
12 together. It's just...

13 MR. FRIDMAN: All right, Mr. Huston, if you
14 look for KIT_CIVIL_65826 and scroll to the next
15 document, which is the text extract, you'll find it.
16 And, again, it's -- I believe they are in chronological
17 order. This is March 10th, 2009.

18 MR. DANIELS: Bear with me.

19 MR. FRIDMAN: It's also on the screen.

20 MR. DANIELS: I know. But I want to be
21 able to see the whole document, not just what you're
22 choosing to show. I'm sure you can understand that.

23 Q. (BY MR. FRIDMAN) Mr. Joseph --

24 MR. DANIELS: Please let me get to the
25 document before you ask any questions. I have to

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1 understand whether my client is addressed in any of
2 these documents. If -- if you're asking him questions
3 that implicate my client, I have a right to object to
4 them, and I need to see the document in order to know
5 whether that's what you're doing. So, please, wait.

6 MR. FRIDMAN: This document does not
7 implicate your client.

8 May I proceed?

9 MR. DANIELS: Not yet.

10 I'm there.

11 MR. FRIDMAN: All right.

12 Q. (BY MR. FRIDMAN) Mr. Joseph, in this email
13 from March 10th, 2009, you are bcc'd on an email from
14 Mr. Kalaga to Pablo D'Agostino concerning a proposal for
15 structural field investigations and engineering report
16 for the shipping area.

17 Do you see that?

18 A. I see that.

19 Q. Did you have any involvement in putting
20 together such a proposal?

21 A. I'm not qualified to put such a proposal
22 together, and I have no involvement.

23 Q. Why is Mr. Kalaga bcc'ing you on this?

24 MR. DANIELS: Objection to the form.

25 A. I have no idea why he is bcc'ing me.

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1 MR. DANIELS: Give me time to get my
2 objection.

3 THE WITNESS: I'm sorry.

4 MR. DANIELS: That's okay.

5 (Reporter clarification.)

6 MR. DANIELS: Object to the form.

7 Q. (BY MR. FRIDMAN) I have scrolled forward to
8 another document. It is right after KIT_CIVIL_65886.
9 The date is March 18, 2009. It is an email from
10 Sudhakar Kalaga to Pablo D'Agostino where, Mr. Joseph,
11 you are bcc'd, and the subject is (as read):
12 "Geotechnical investigations core and soil samples at
13 shipping area."

14 Do you see that?

15 A. I see that.

16 Q. Do you recall what this was about?

17 A. I don't recall.

18 Q. And, yet, you're bcc'd on this email, right?

19 A. That is correct.

20 Q. And I'm -- I'm just going to keep scrolling
21 and -- and to the end because we certainly don't have
22 the time to go through each one. But here's another
23 example at the very end.

24 MR. FRIDMAN: Mr. Huston {sic}, you can
25 find it, it's a few pages up from the end document right

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1 after KIT_CIVIL_66051.

2 Q. (BY MR. FRIDMAN) That is from Sudhakar Kalaga
3 to Pablo D'Agostino where, Mr. Joseph, you are bcc'd on
4 July 26, 2010. And the subject is (as read): "Invoice
5 for 50 percent complete, West Little York entrance drive
6 away and roadside ditch slope paving improvements."

7 Do you see that?

8 A. Yes, I see that.

9 Q. So this document is well over a year after we
10 -- we -- you know, the first few documents that we saw
11 you were being bcc'd on, right?

12 A. Correct.

13 Q. So --

14 A. Go ahead.

15 Q. Go ahead. Please finish.

16 A. No, no. You go ahead.

17 Q. My question, Mr. Joseph, is it appears that
18 Mr. Kalaga was keeping you in the loop as a bcc on his
19 dealings with Toshiba and Pablo D'Agostino, right?

20 A. That is not true, but I can speak a little
21 about this particular project because I know about this
22 one.

23 Can I do that?

24 Q. Please go ahead.

25 A. All right. I don't want to say anything. In

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1 some cases, it is very important in this particular case
2 I had to get a permit to finish this job, and it was
3 being held up because the fire marshal would not let me
4 finish the completion of the project until all the
5 driveway and the emergency access and fire trucks access
6 and all the drawings was done right. And I'm -- as a
7 GC, I'm responsible for completing the job. And in this
8 case, if he's keeping me in the loop to let me know
9 what's going on, I think it is good information so I --
10 because when the fire marshal in the county comes for
11 the inspection, I need to be in the loop of what's going
12 on, so I can close out the project. So I think it's a
13 good practice for him to -- if he has bcc'd me, I have
14 no problems with this particular one.

15 Q. Why didn't he cc you?

16 A. I -- I have no idea why.

17 Q. Was he just following your instruction to him
18 that we saw earlier where you said bcc me, do not cc me?

19 A. I did not give minimum instructions across the
20 board, no.

21 Q. Do you also go by the name "Roy"?

22 A. Yes, I do.

23 Q. Is that a nickname?

24 A. Yeah, it's a nickname.

25 Q. Did Mr. Kalaga call you Roy?

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1 A. Yes, he did.

2 Q. And where does Roy come from? Where does that
3 nickname come from?

4 A. Well, my official baptized name is Abraham
5 Joseph and many people would call me Abraham or Abraham
6 or -- so my parents said, well, you know, we just want
7 to call you Roy. It's easy to pronounce. So among --
8 yeah, so some people know me as Roy, yes.

9 Q. Is it among friends?

10 A. Not among friends, among outside of work.

11 Q. Did Pablo D'Agostino call you Roy?

12 A. No, he called me Abraham.

13 Q. Now, after -- so at what -- at what point did
14 you notice that KIT Construction started to replace
15 OnePoint as Pablo's contractor of choice?

16 A. I'm not sure if -- if he was Pablo's contractor
17 of choice. I cannot answer that, but around 2010 and
18 '11, I noticed jobs were dwindling for me.

19 Q. Did you notice that jobs were increasing from
20 Mr. Kalaga?

21 A. I would see them on the premises, yes.

22 Q. Did you address that with him?

23 A. I confronted him a couple of times and I asked
24 him.

25 Q. And what did he tell you?

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1 A. I said, Well, that's a project I just bid on.
2 What happened to that? You didn't even tell me where
3 I -- he said, Oh, I have -- I have no control over it.
4 It's being done by -- the corporate has made a decision
5 to get -- he would -- he would just lie to me.

6 Corporate decided to get me another
7 contractor there. And he wouldn't even tell me the name
8 of the contractor, but I would see KIT's employees
9 there.

10 Q. Oh, so Mr. Kalaga wouldn't tell you that he was
11 doing the work?

12 MR. DANIELS: Objection to the form. He
13 thought he was speaking about Mr. D'Agostino.

14 A. I was talking about -- yeah, Pablo wouldn't
15 tell me who the contractor that got the job.

16 Q. (BY MR. FRIDMAN) I see, okay.

17 A. Yeah.

18 MR. DANIELS: He was -- just so you know,
19 he was asking, did you confront Kalaga?

20 A. No, no. I did not confront Kalaga. No,
21 absolutely no. No.

22 Q. (BY MR. FRIDMAN) I'll -- I'll -- let me -- let
23 me try again.

24 MR. DANIELS: Clean that up.

25 MR. FRIDMAN: Sure.

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1 A. Okay.

2 Q. (BY MR. FRIDMAN) I want to talk to you about
3 whether you talked -- discussed this with Pablo and with
4 Kalaga. So let's start with Kalaga first.

5 Did you --

6 A. Okay.

7 Q. -- discuss this diminution of work to OnePoint
8 with Mr. Kalaga?

9 A. I did not tell him that. No, I did not.

10 Q. You never did?

11 A. I did not tell him -- I mean, no, I did not
12 tell him that I lost jobs. No, I did not.

13 Q. Did you ever complain to Mr. Kalaga that you
14 were not getting big projects from Toshiba?

15 A. I don't recall. I might have mentioned it to
16 him, but I don't recall telling him. I met Kalaga three
17 or four times during this whole period after that, so...

18 Q. And what about with Pablo D'Agostino? Did you
19 discuss it with him?

20 A. Yes, I did.

21 Q. Okay. Tell me what your discussion was.

22 A. He would keep calling me and say, Well, we've
23 got a great project, can you come bid on it? And I
24 would go, and I wouldn't get it. Then he would call me
25 a few months later. So after a while, I just started

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1 getting aggravated, and I said, What's going on? I'm
2 not getting any projects here. So I see that -- and I
3 started pointing out some construction that was
4 happening. So he got mad at me, he's saying, What, are
5 you checking on me? What is your, you know -- and so he
6 was getting irritated if I was asking him about it.

7 Q. Did the subject of payments to him come up
8 during these discussions?

9 A. No, it did not.

10 Q. And did you discuss this with him over the
11 years about why you weren't getting selected?

12 A. I think I discussed it with him once or twice.
13 That's it. And then I stopped asking him.

14 (Exhibit 81 marked.)

15 Q. (BY MR. FRIDMAN) I'm going to show you
16 Exhibit 81. Can you see that?

17 A. Yes.

18 Q. Okay. Exhibit 81 KIT_CIVIL_119201.

19 A. Yes.

20 Q. Email from you to Mr. Kalaga copying
21 Chetan Vyas dated October 16, 2012. Subject "My
22 concerns."

23 Do you see that?

24 A. Yes, I do.

25 Q. And you write that you have gone out of your

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1 way to introduce KIT's Professional to Toshiba, even
2 though I knew several other Indo-American companies
3 providing the same services. I did this, because I
4 trusted KIT's Professionals, right?

5 A. Correct.

6 Q. Is that correct?

7 A. Well, that's what the email says.

8 Q. And you write (as read): "I have tried very
9 hard not to ask KIT's Professionals for any service --
10 for any favors, civil engineering related or anything
11 else, although I made a mistake of once asking for a
12 favor for my personal property water retention issue,
13 and I did receive a lukewarm response at best."

14 What are your referring to there?

15 A. I had some water plumbing in the back of my
16 house, and I did ask him to help me with that.

17 Q. And did they help you?

18 A. No, they did not.

19 Q. And then you write -- skipping ahead a little
20 bit. (As read): "I am NOT" -- capitalized NOT --
21 "asking KIT's to thank me for referral or do any favors
22 for me, but I am requesting KIT's Professional not to
23 put me out of business."

24 Why did you tell them that?

25 A. Well, so let me back up a little bit. So

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1 Chetan Vyas was on the jobsite, and I saw him one day,
2 and I told him, I said, If y'all have any crumbs left of
3 any jobs see if you can direct them my way. So he said,
4 Well, in that case, why don't you just send an email to
5 Sudhakar and talk to him about it, and that's what
6 initiated this email.

7 Q. Uh-huh.

8 And then you write (as read): "I am sure
9 you have heard the phrase 'Don't bite the hand that
10 feeds you.' I feel like my hands have been bit."

11 Why did you feel your hands have been bit?

12 A. Well, because I -- I got them into Toshiba in
13 good faith, and he was doing well. So I just felt like
14 that he just overstepped his boundaries, and I was -- I
15 was pretty much getting kicked out of there.

16 Q. You still work -- you have the journeymen
17 electricians, though, right?

18 A. Yeah, I did.

19 Q. And you still, during this time period, were
20 making periodic payments of Pablo D'Agostino's credit
21 card bills and giving him cash, right?

22 A. Correct.

23 Q. And that was a way for you to at least keep the
24 journeyman work from Toshiba, right?

25 MR. DANIELS: Object to the form.

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1 A. I was just getting that so that I could
2 continue to stay in Toshiba and hopefully land some big
3 projects.

4 Q. (BY MR. FRIDMAN) Did you get a response to
5 this email you wrote to Mr. Kalaga?

6 A. I -- I don't believe so, no. Not that I
7 recall, no.

8 Q. You don't -- you never spoke to him?

9 A. I don't think -- I spoke to Chetan about it,
10 and he just threw his hands up and said, Well, why don't
11 you talk to Sudhakar about it?

12 Q. Okay.

13 Waiting for an email to load up.

14 MR. DANIELS: You know the exhibit number?

15 MR. FRIDMAN: It should be 82.

16 MR. DANIELS: Thanks.

17 (Exhibit 82 marked.)

18 MR. FRIDMAN: Okay. It's loaded up.

19 Q. (BY MR. FRIDMAN) Mr. Joseph, I'm showing you
20 Exhibit 82. The first document has Bates number
21 KIT_CIVIL_36551.

22 A. Yes.

23 Q. I'll scroll to the bottom and let you read it.

24 A. If you can scroll up. Okay. Keep going.

25 Okay. Keep going. Yes, I'm done reading.

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1 Q. Okay. So the email chain is the email
2 exchanges between you, Chetan Vyas, and Sudhakar Kalaga
3 around February 5th, 2014, regarding a Toshiba project.

4 A. That is correct.

5 Q. In the email at the bottom of the chain on
6 KIT_CIVIL_36553 January 15, 2014, you write to Sudhakar
7 and Chetan and you say that (as read): "We are
8 experiencing a very slow business cycle, and we need
9 your help with this project below."

10 What was going on with OnePoint that you
11 were experiencing a slow business cycle?

12 A. Well, we were slow, in general, during that
13 time frame. I don't know what -- what was the -- I
14 don't know if it was Hurricane Ike, or I don't know what
15 it was. So we were slow at that time. We were slow, in
16 general, with Toshiba to start with, so...

17 Q. Well, what -- tell me a date range for when you
18 perceived OnePoint was slow?

19 A. I don't know the exact date range when we were
20 slow. But at that time, when I sent that email to him,
21 I could have been slow, and that's why I put that in the
22 email.

23 Q. Were you slow in 2013?

24 A. I really don't know.

25 Q. You were slow in 2014?

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1 A. I was slow in 2014 as I put in this email, yes.

2 Q. Were you slow in 2015?

3 A. As far as Toshiba jobs or in jobs in general?

4 Q. Well, that's a good distinction. When you
5 write "we're experiencing a very slow business cycle,"
6 are you referring to in general or with respect to
7 Toshiba?

8 A. I'm referring in general.

9 Q. Okay. So in general, were you slow in 2015?

10 A. I probably was. Yes, I was.

11 Q. What about 2016?

12 A. I don't know.

13 Q. Are you slow now?

14 A. I'm very slow right now --

15 Q. What about --

16 A. -- because of COVID.

17 Q. What about in 2019?

18 A. It was an okay year.

19 Q. 2018?

20 A. I don't know how I was in 2018.

21 Q. Is it fair to say that you were slow after
22 Toshiba shifted its construction work to KIT
23 Construction?

24 A. I would say, yes.

25 Q. In the years that you were working for Toshiba

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1 and billed about \$32 million between 2007 and 2011, did
2 Toshiba make up a large portion of OnePoint's revenue in
3 those years?

4 MR. DANIELS: Object to the form.

5 A. I don't know the exact percentage, but I did
6 have other customers along with Toshiba at that time,
7 also.

8 Q. (BY MR. FRIDMAN) What percent of your revenue
9 would you say was Toshiba work --

10 A. I really don't know.

11 MR. DANIELS: He literally just said he
12 doesn't know.

13 A. Well, I don't know.

14 Q. (BY MR. FRIDMAN) Was it 50 percent?

15 MR. DANIELS: He literally just said he
16 doesn't know.

17 You know what? Let's take a break because
18 we've been going for an hour.

19 MR. FRIDMAN: All right. Take a break.

20 MR. DANIELS: Before everybody leaves, Dan,
21 what are you looking at? How much longer are you going
22 to be?

23 And, Mr. Videographer, what's our time --
24 our running time?

25 THE VIDEOGRAPHER: Let me get us off the

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1 record. This is now the end of Video 6 of Abraham
2 Joseph. We're off the record at 5:20.

3 (A break was taken from 5:20 p.m. to
4 5:33 p.m.)

5 THE VIDEOGRAPHER: Now back on the record.
6 Video 7 of Abraham Joseph. The time is approximately
7 5:34.

8 Q. (BY MR. FRIDMAN) All right. Mr. Joseph, I'm
9 going to put back on the screen Exhibit 82 that we were
10 talking about when we took the break. Do you see it?
11 This is the email where you were telling Mr. Kalaga and
12 Mr. Vyas that you had a slow business cycle.

13 A. Right.

14 Q. And -- so were you asking them for help in
15 getting work from Toshiba?

16 A. On this email, I'm saying that because I want
17 them to get aggressive on -- on designing that. Hold
18 on. Let me just read what it says.

19 Q. You see, I have it on the screen here. It
20 says --

21 A. Right. Yeah, yeah. I see what it is.

22 I said that because this is such a small
23 project for them that they may -- they may not get onto
24 it. So I figured if I would say that I'm slow, they
25 might expedite the project in some way.

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1 Q. Okay. Did you have conversations with Kalaga
2 or Vyas about trying to get you more work from TIC?

3 A. Can you repeat that question, please?

4 Q. Yes.

5 From time to time after 2011, did you have
6 conversations with Mr. Vyas or Mr. Kalaga about trying
7 to get you more work from TIC?

8 A. I talked to Vyas once in person. And then the
9 second time, I've never spoken to Chetan -- I mean, to
10 Sudhakar directly. And the second communication was
11 that email where I -- where I ask. But it was not for
12 TIC work, it could be -- I found out later that they
13 have a construction coming. So if they have any other
14 projects, to send it my way.

15 Q. Did they ever send any work your way?

16 A. Zero. Nothing.

17 Q. Did they ever ask you to do something that you
18 considered improper?

19 A. Absolutely not.

20 Q. Did they ever ask you to submit complementary
21 bids to their bids to Toshiba?

22 A. No, they did not.

23 Q. Did Pablo? Let me -- let me clarify my
24 question.

25 A. Yeah.

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1 Q. Did Pablo D'Agostino ever ask you to submit a
2 complementary bid for a bid that KIT Construction
3 submitted to TIC?

4 A. No, he did not.

5 Q. Did Pablo D'Agostino ever tell you what price
6 to bid on a project for TIC?

7 A. No, he -- he did not.

8 Q. All right. Mr. Joseph, what I'm going to do
9 is -- you understand that you were here both in your
10 individual capacity and as a corporate representative
11 for OnePoint, Inc., right?

12 A. Yes.

13 Q. So what I'm going to do to try to move this
14 along is I'm going to put on the screen Exhibit 90.
15 Exhibit 90 is the 30(b)(6) notice of taking the
16 deposition of OnePoint.

17 Have you seen this document before?

18 (Exhibit 90 marked.)

19 A. I believe I do.

20 Q. (BY MR. FRIDMAN) All right. I'm going to put
21 it on the screen.

22 A. Okay.

23 Q. Do you see it?

24 A. Yes, I do.

25 Q. All right. So through the day, we've covered a

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1 lot of the topics that are on this list. So what I want
2 to do is cover the ones that we haven't discussed before
3 and try to finish up that way.

4 A. Okay.

5 Q. So I'm going to scroll through the topics. So
6 we've discussed Topic 1. We've discussed Topic 2.
7 We've discussed 3 through 5 and Topic 6. We've
8 discussed 7, and 8. We've discussed 9. We've discussed
9 10.

10 Agreed?

11 A. Yes.

12 Q. For Topic 11, did you ever discuss OnePoint's
13 bids with anyone at TIC other than Pablo D'Agostino?

14 A. No one.

15 Q. It was always with Pablo?

16 A. Yes.

17 Q. Did you ever discuss anything with Paige St.
18 Fluer?

19 A. Can you rephrase that question? I have
20 discussed -- go ahead rephrase that question.

21 Q. Did you ever -- did you ever discuss anything
22 with Paige St. Fluer?

23 THE WITNESS: So Mr. Fridman is saying
24 "anything."

25 A. So I have discussed with her -- related or just

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1 anything?

2 Q. (BY MR. FRIDMAN) Anything at all.

3 And the next question I'll ask you is if --
4 if you have, what -- what have you discussed with Paige?

5 A. I've had a few email communications with her
6 about some POs or some late payments or something like
7 that.

8 Q. So billing, administrative stuff; is that fair?

9 A. Correct. Correct. Nothing to do with bids.

10 Q. Have you ever discussed anything with a Toshiba
11 president?

12 A. No.

13 Q. Have you ever met any Toshiba president?

14 A. I have seen them in -- well, we did some
15 projects in the C-suite.

16 Q. Have you had meetings with them?

17 A. Back in 2007 when I first was introduced to
18 Toshiba, I had a meeting in the conference room with the
19 president, the CFO, several of other C-suites. I
20 believe Margaret McKay was there, Ken Shaffer was there.
21 And they would be -- put me through this vetting
22 process. So I did meet about ten people in their
23 conference room when I first came to Toshiba.

24 Q. How did you first come to Toshiba?

25 A. Through Pablo D'Agostino.

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1 Q. And how did Pablo D'Agostino contact you about
2 Toshiba?

3 A. He called me and he told me he got a job at
4 Toshiba and told me to come there and see him.

5 Q. And that's what you did?

6 A. And that's what I did.

7 Q. Did he ask you to start bidding on projects?

8 A. I don't know if he's -- not right away. He
9 said that we have an expansion project coming up, and I
10 think you should meet with the -- the management team.

11 Q. And is that how you got the meeting with the
12 president, Ken Shaffer, and Margaret McKay?

13 A. Correct.

14 I did not talk to them in person, but they
15 were all in the meeting and they were asking me some
16 questions.

17 Q. So Pablo arranged that meeting for you?

18 A. I don't know if Pablo arranged it or his
19 immediate boss arranged it, but I was in that meeting.

20 Q. What OnePoint employees would communicate with
21 Toshiba employees?

22 A. David Headrick, Anne, and maybe some of my
23 workers while they were on the jobsite.

24 Q. All right. Let's move on to Topic 12.

25 You recall coming to Toshiba last December

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1 for an interview, right?

2 MR. DANIELS: You can answer that "yes" or
3 "no."

4 A. Yes, I was there.

5 Q. (BY MR. FRIDMAN) You were accompanied by your
6 lawyer, Kelly Stephens, right?

7 MR. DANIELS: You can answer that "yes" or
8 "no."

9 A. Yes.

10 Q. (BY MR. FRIDMAN) You came voluntarily, right?

11 MR. DANIELS: You can answer that "yes" or
12 "no."

13 A. Yes.

14 MR. FRIDMAN: I'm sorry, Mr. Daniels. Why
15 are you giving him instructions on how he should answer?

16 MR. DANIELS: Because we talked about this
17 yesterday, Counsel. We're not going to let -- I'm not
18 going to let you go reask all the stuff you asked at
19 that interview. Besides, you've asked it all today
20 already.

21 MR. FRIDMAN: And that's not what I'm going
22 to do. If you hear me ask a question that you have a
23 concern with, you can raise an objection.

24 MR. DANIELS: Counsel, I'm not going to
25 disclose the contents of my communication with my

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1 client, but he is aware that we have -- what we've --
2 we've talked about -- about this topic, and so I don't
3 want him to be confused about what he can and can't
4 answer.

5 MR. FRIDMAN: All right. So you can --

6 MR. DANIELS: You can answer any question
7 he asks you unless I tell you not to. But give me time
8 to give that instruction.

9 THE WITNESS: Got it.

10 Q. (BY MR. FRIDMAN) Mr. Joseph, you came to the
11 meeting at TIC voluntarily, right?

12 A. Yes.

13 Q. And you were seated right by the door, right?

14 A. Yes.

15 Q. And you remembered that I interviewed you,
16 right?

17 A. Yes.

18 Q. Do you recall having a conversation with Kay
19 Peterson towards the end of the interview?

20 A. I don't know who Kay Peterson is.

21 Q. She is one of Toshiba's assistant general
22 counsels. She was present at the meeting.

23 Do you remember that?

24 A. You're talking about a conversation outside the
25 room or inside the room?

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1 Q. Outside the room.

2 A. Outside the room, I spoke to Margaret McKay and
3 one other lady. I don't know who the other lady was.

4 Q. Perhaps that was Kay Peterson.

5 A. I don't know.

6 Q. What did you tell them?

7 MR. DANIELS: Don't answer that.

8 MR. FRIDMAN: You're instructing him not to
9 answer?

10 MR. DANIELS: Yes.

11 Q. (BY MR. FRIDMAN) Did you tell them that you
12 wanted to make it up to Toshiba?

13 MR. DANIELS: Don't answer that.

14 MR. FRIDMAN: You're instructing him not to
15 answer?

16 MR. DANIELS: If I said "don't answer
17 that," I think it's very clear that that's what I'm
18 instructing him.

19 MR. FRIDMAN: So is it your position,
20 Mr. Daniels, that you won't allow him to ask -- answer
21 any questions about what transpired during the
22 interview?

23 MR. DANIELS: That's correct.

24 MR. FRIDMAN: And you'll instruct him not
25 to answer?

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1 MR. DANIELS: That's correct.

2 MR. FRIDMAN: All right. So we'll move on
3 from the topic, but we'll reserve the right to bring
4 this up with the judge.

5 MR. DANIELS: Look forward to it.

6 Q. (BY MR. FRIDMAN) All right. Let's talk about
7 Topic 13 the email systems, electronic data storage
8 systems, and text messaging services used by OnePoint
9 from 2007 to 2019 including the identity of the email
10 service providers, physical or cloud-based backups, and
11 the deletion or destruction of OnePoint's emails and
12 text messages.

13 Mr. Joseph, what we have noticed in going
14 through the documents we have received through your
15 counsel is that there are very few emails that have been
16 produced to us that it appears you should have. We
17 count a total of perhaps 500 emails at tops.

18 Does OnePoint have an email system?

19 A. Yes.

20 Q. Who is the email provider for OnePoint?

21 A. It's Microsoft 365.

22 Q. So do you use Outlook?

23 A. Yes, I do have Outlook.

24 Q. How long have you had Microsoft as your email
25 provider?

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1 A. Just about a year. 2017 or so. Microsoft --
2 the 365 was about a year ago.

3 Q. And before that?

4 A. I think before that, it was some cloud-based
5 system.

6 Q. And who was the provider for that cloud-based
7 system?

8 A. I believe it was Bluehost or something like
9 that.

10 Q. A company called Bluehost?

11 A. Yes.

12 Q. And how long did Bluehost provide your email
13 services?

14 A. I -- I don't know.

15 Q. Did you research that issue to prepare for your
16 30(b)(6) deposition today?

17 A. Did I -- can you repeat that question?

18 Q. Yes.

19 Did you research how long Bluehost had been
20 your service provider for emails to prepare for your
21 30(b)(6) deposition today?

22 A. No, I did not.

23 Q. So who was your email provider in 2007?

24 A. I don't know. It was the same email address
25 all along.

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1 Q. Right.

2 Who does your IT?

3 A. I have a guy who does my IT.

4 Q. Who is that?

5 A. His name is Aromus, A-R-O-M-U-S.

6 Q. Is that his first name or last name?

7 A. That's his first name.

8 Q. What's his last name?

9 A. Rodriguez.

10 Q. Does he have a company?

11 A. No. He just does this on the side.

12 Q. How long has he been helping OnePoint with its
13 IT?

14 A. I'm going to say about 5 or 6 years.

15 Q. So would he have this information about who
16 hosted your email system?

17 A. I'm -- not sure. I don't know.

18 Q. And before he started working with OnePoint,
19 who helped you with your IT?

20 A. There was a guy, but I don't recall his name or
21 his company.

22 Q. Are you aware of whether OnePoint has any
23 physical or cloud-based backups of its emails or files?

24 A. I think so, yes.

25 Q. Okay. Tell me about that.

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1 A. I'm not an expert on this, so I don't know, but
2 it is -- I could go to any computer and I could get into
3 my system, so...

4 Q. Do you know --

5 A. I guess it's residing in the Cloud somewhere,
6 so...

7 Q. How far back do your email records go?

8 A. I think I can go back 10, 12 years maybe, or I
9 don't know exactly.

10 Q. You have email records going back 10 or
11 12 years?

12 A. Possibly, yes.

13 Q. And how do you access them?

14 A. How do I access my email?

15 Q. Yes.

16 A. That's the question?

17 Well, I just type in my password on my
18 computer, and my email pops up.

19 Q. So through Microsoft 365, you have access to 10
20 to 12 years' worth of emails; is that right?

21 A. That is correct.

22 Q. Do you delete emails?

23 A. I purge my emails once in a while, yes.

24 Q. When was the last time you purged your emails?

25 A. I don't know the exact date. I don't know

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1 when.

2 Q. Have you purged your emails since you first
3 learned that Pablo D'Agostino had been terminated from
4 TIC?

5 A. I don't know the answer to that. I -- I don't
6 recall.

7 Q. Did you purge your emails after your interview
8 at TIC with us in December 2019?

9 A. I don't recall.

10 Q. Did you purge your emails after you got sued by
11 Toshiba in February of 2020?

12 A. I don't recall.

13 Q. Did you take any steps to preserve your emails
14 and prevent them from being purged?

15 MR. DANIELS: To the extent that that would
16 disclose communications with counsel, I'm instructing
17 you not to answer. If you can answer that without
18 disclosing things told to you by your lawyers, you can
19 answer.

20 A. Can you repeat that question?

21 Q. (BY MR. FRIDMAN) Yes.

22 Did you take any steps to preserve your
23 emails after you got sued by Toshiba?

24 A. I didn't take any steps at all. I didn't do
25 anything.

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1 Q. Tell me about text messages. How did you
2 communicate with Pablo outside of email?

3 A. I have texted him a few times.

4 Q. What programs did you use to text him?

5 A. I'm not sure there's a program for texting.
6 Whatever is on my phone, I just texted him on that.

7 Q. What kind of phone do you have?

8 A. I have an AT&T phone.

9 Q. Is it an iPhone or a Samsung or what's the
10 brand?

11 A. It's an iPhone.

12 Q. How long have you had iPhones?

13 A. I guess 6 -- 5, 6 years since iPhones came out,
14 yeah.

15 Q. Does your iPhone use iCloud as a backup system?

16 A. I don't know.

17 Q. Who set up your iPhone?

18 A. Well, I just go to the AT&T store. And every
19 time I get a new phone, they will do whatever they have
20 to do to transfer the -- I'm not savvy into doing all
21 that.

22 Q. So did you use the iPhone's messages app to
23 communicate with Pablo D'Agostino?

24 A. Are you talking about text messages?

25 Q. Yes.

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1 A. Yes. I have texted him, yes.

2 Q. Did you use any other program such as WhatsApp?

3 A. I might -- I may have used WhatsApp once or
4 twice with him.

5 Q. What about to communicate with Mr. Kalaga?
6 What programs have you used?

7 A. I had very limited communication with him, but
8 I may have texted him a few times, yes.

9 Q. And have you checked your phone to provide us
10 with all those text messages?

11 A. I believe they -- yes, I have.

12 Q. Let's go to Topic 14, which is closely related
13 to 13, and I'm assuming that the electronic devices that
14 you use are for both personal and company use; is that
15 correct?

16 A. On my cell phone? Yes, yes. I use it for
17 both.

18 Q. Do you have a non-work email address that you
19 use?

20 A. Yes, I do.

21 Q. And what is that email address?

22 A. It's a Gmail account.

23 Q. What is the address?

24 A. Ajoseph777@gmail.com.

25 Q. How long have you used that email address?

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1 A. I guess -- I don't know exactly how many years,
2 but I have it for a few years.

3 Q. Did you ever use it to communicate with
4 Pablo D'Agostino?

5 A. No, I don't recall.

6 Q. Did you ever use it to communicate with
7 Sudhakar Kalaga?

8 A. I don't recall.

9 Q. Is it possible?

10 A. Will you rephrase that question?

11 Q. Yes.

12 Is it possible that you've used your
13 personal Gmail account to communicate with either
14 Pablo D'Agostino and Sudhakar Kalaga?

15 A. It's possible.

16 Q. Have you searched that account for emails
17 relating to Pablo D'Agostino or Sudhakar Kalaga?

18 A. I didn't do any searches, no.

19 Q. Do you know if your counsel did any searches?

20 A. I don't know.

21 MR. DANIELS: Counsel, I'll represent to
22 you that we did, and we did search the personal Gmail.

23 Q. (BY MR. FRIDMAN) Let's look at Topic 15. (As
24 read): "All the steps taken by OnePoint to preserve
25 electronic data and physical documents including emails

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1 following TIC's filing of the complaint in October 2019.
2 TIC's interview of Mr. Joseph in December of 2019 and
3 the filing of TIC's amended complaint against OnePoint
4 and Mr. Joseph in February of 2020."

5 Can you tell me all the steps that OnePoint
6 has taken to preserve electronic data and physical
7 documents?

8 A. I've not taken any extra steps to preserve it.
9 It is -- it is there, and I just leave it there.

10 Q. Have you stopped deleting emails?

11 A. Ever since my attorneys told me, yes, I did.

12 MR. FRIDMAN: And, Mr. Daniels, you can
13 stop me if -- if this question is too intrusive, but I
14 do want to get a date for when Mr. Joseph was first told
15 to stop deleting the emails.

16 MR. DANIELS: Yeah. That would have been
17 handled by Mr. Stephens, who is on the phone.

18 No. Don't turn your mic on, just...

19 MR. STEPHENS: Okay.

20 Dan, when we first got the notice that you
21 were trying to talk to him before the December
22 interview, we told them to stop purging, to not delete
23 any evidence or any emails or any text messages or
24 whatever.

25 MR. FRIDMAN: Okay. So...

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1 MR. STEPHENS: So that was prior to the
2 December 19th interview.

3 Q. (BY MR. FRIDMAN) All right. Mr. Joseph, do
4 you remember that instruction?

5 A. I remember that instruction, but I am going to
6 beg to differ a little bit. I don't think it was
7 immediately after that meeting. I think it was a few --
8 well, I don't know. I don't remember. I thought it was
9 a couple of months after the meeting, but I don't -- I
10 don't remember.

11 Q. Is there a way to pinpoint the date like an
12 email?

13 A. It was a verbal communication.

14 Q. A what communication?

15 A. A verbal.

16 Q. Verbal?

17 A. Spoken.

18 Q. Yeah, okay.

19 So you -- to the best of your recollection,
20 you think it was a couple of months after what
21 Mr. Stephens is -- is telling us?

22 A. Based on my recollection.

23 Q. Did you follow the instruction?

24 A. I believe I did.

25 Q. You're not sure?

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1 A. I don't know.

2 Q. Okay. You're not sure if you stopped deleting
3 emails after your lawyers told you to stop?

4 A. I think I stopped it, yes.

5 Q. All right. Let's go to Topic No. 16. This
6 topic is asking for documents, physical documents, or
7 electronic documents that OnePoint or yourself destroyed
8 after TIC filed its complaint about Pablo D'Agostino in
9 October 2019.

10 What can you tell me about that?

11 A. I -- I did not destroy any physical documents,
12 no.

13 Q. Okay. Did you delete emails?

14 A. No.

15 Q. Did you purge your emails between yourself and
16 Pablo D'Agostino?

17 A. I don't believe so, no.

18 Q. Do you know for sure?

19 A. I'm not sure. I'm not 100 percent sure.

20 Q. All right. Let's go to Topic 17. (As read):
21 "All the steps taken by OnePoint, Abraham Joseph, and
22 their agents including counsel, to search for, collect,
23 and review electronically stored documents and physical
24 documents potentially responsive to TIC's requests for
25 production issued to OnePoint and Abraham Joseph."

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1 So, first, the volume of documents
2 collected. Do you know how many documents were
3 collected from yourself and OnePoint?

4 A. I don't know how many boxes, but I pulled
5 everything from filing cabinets into boxes. It was
6 picked up by the attorneys' office.

7 Q. So that's physical documents?

8 A. Right.

9 Q. What about electronic documents? Do you know
10 how many electronic documents were collected?

11 A. I believe -- I believe they -- they got an
12 image of my computer or something.

13 Q. Your computer was imaged?

14 A. Yes.

15 Q. Do you know if the cloud system that your
16 computer used was imaged too?

17 A. I don't know.

18 Q. But --

19 A. But they imaged my -- I don't know.

20 Q. Do you know how many emails they collected?

21 A. I don't know.

22 Q. Can you tell me what document-review
23 methodology was used to determine what documents were
24 responsive to TIC's request for production?

25 MR. DANIELS: To the extent that you learn

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1 that information from counsel, I'm going to instruct him
2 not to answer. If you can answer without disclosing
3 communications with Counsel, then, you can answer.

4 A. Can you repeat that question?

5 Q. (BY MR. FRIDMAN) Yes. It's -- it's Point
6 No. 2 on 17. The question is: What document-review
7 methodology was used to identify responsive documents
8 responsive to TIC's request for production?

9 A. I don't know.

10 Q. You're not prepared to testify about that?

11 A. No. I have no idea about what you mean by a
12 methodology.

13 Q. Well, lawyers use different ways to identify
14 relevant documents including keywords. So my -- my
15 question is: What systems were used to identify
16 relevant documents?

17 MR. DANIELS: Same instruction.

18 A. I really don't know the answer to that. I
19 don't know.

20 Q. (BY MR. FRIDMAN) All right. No. 3, do you
21 know what instructions were given to any e-discovery
22 vendors that you are using to host documents that have
23 been collected from you and OnePoint?

24 A. That vendor was not even my vendor. I think
25 the attorneys sent the vendors over there. So I didn't

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1 give them any instructions.

2 Q. Who is the vendor?

3 A. I don't know who the vendor is.

4 Q. Do you know what steps were taken to eliminate
5 nonresponsive documents from the documents that were
6 collected from you?

7 A. I didn't -- okay. Can you repeat that
8 question?

9 Q. Yes. So I'm -- I'm assuming based on what
10 you've told me that emails were collected from you and
11 physical documents were collected from you.

12 And my question is: How -- what process
13 was followed to decide what documents were relevant to
14 this lawsuit and what documents that were not relevant?

15 MR. DANIELS: Answer to the extent you can
16 without disclosing attorney-client privilege.

17 A. I open the filing cabinets. I took out the
18 files, put it in the box, and they came and picked it
19 up.

20 Q. (BY MR. FRIDMAN) Were all the files that you
21 provided to your lawyers relevant?

22 A. It was -- it was for the jobs that happened at
23 Toshiba. I only gave them Toshiba-project jobs.

24 Q. And what about your emails? Did you select
25 which emails your lawyers took from you, or did they

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1 collect all of them?

2 A. They collected everything from my computer.

3 Q. Do you know how the determination was made
4 about which emails were responsive and were not
5 responsive to Toshiba's request for production?

6 A. I would have no idea about it.

7 Q. In the document review that was done, do you
8 know what keywords were used?

9 MR. DANIELS: Answer only to the extent you
10 can without revealing attorney-client privilege.

11 A. I don't -- I don't know.

12 MR. FRIDMAN: So this -- this witness,
13 obviously, is not prepared to discuss these topics. Do
14 you have somebody else that you're going to put forward
15 as a 30(b)(6) on Topic 17?

16 MR. DANIELS: Well, you see from our
17 objection, we object him answering pretty much
18 everything after, No. 1, it would invade the
19 attorney-work client privilege. So, no.

20 MR. FRIDMAN: Okay. I mean, it was -- it
21 was your responsibility to seek a protective order from
22 the court prior to the deposition. The objection is not
23 enough under the Fifth Circuit. So you needed to get a
24 ruling from the court, and you certainly had plenty of
25 time. I can cite a couple of cases to you. Ferko

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1 versus National Association for Stock Car Auto Racing.

2 MR. DANIELS: I'm not going to be lectured
3 to by you. If you've got an issue with the way we did
4 it, you can take it up with Judge Hittner.

5 MR. FRIDMAN: All right. We will.

6 MR. DANIELS: Looking forward to it.

7 Q. (BY MR. FRIDMAN) Topic No. 18, an explanation
8 for why OnePoint and Mr. Joseph produced just 199 emails
9 for a time period spanning 2007 to 2019, including just
10 20 emails of Pablo D'Agostino.

11 What do you know about Topic 18?

12 A. Pablo was not big into emails. So there's
13 not like there was a lot of emails. He was more of a
14 big in-person guy. So he did even know how to write one
15 sentence straight. So I don't have a lot of emails with
16 him.

17 Q. Do you think that between 2007 and 2019 that
18 you only exchanged 199 emails with Pablo D'Agostino?

19 A. I would believe that because -- I would have
20 probably more -- I would have communicated more to Paige
21 than with Pablo. He -- he could not even type a
22 straight sentence.

23 Q. Okay. Do you think it was just 20 emails?

24 A. I don't know how many emails it was. I don't
25 know.

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1 Q. So you're telling me that from 2007 to 2019,
2 you only emailed with Pablo 20 times?

3 MR. DANIELS: That's not what he said,
4 Counsel. He just said he doesn't know.

5 A. I don't know.

6 Q. (BY MR. FRIDMAN) All right. So you're not
7 prepared to answer 18, either?

8 MR. DANIELS: He has answered 18. He gave
9 an explanation. The topic called an explanation. He
10 gave one.

11 MR. FRIDMAN: The explanation is that Pablo
12 didn't write many emails. Is that it?

13 MR. DANIELS: That's his explanation.

14 A. That's correct.

15 Q. (BY MR. FRIDMAN) Topic 19, we've covered. 20,
16 we've covered. 21, we've covered. 22, sales taxes.

17 OnePoint collected sales taxes from TIC,
18 right?

19 A. That is correct.

20 Q. Did OnePoint remit all the sales tax it
21 collected from TIC between 2007 to 2019 to the State of
22 Texas and local authorities?

23 A. Yes, we did.

24 Q. You understand that your expert report
25 contradicts that statement, right?

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1 MR. DANIELS: That's not the -- that
2 mischaracterizes that report.

3 MR. FRIDMAN: All right. Well, let's --
4 let's put it on the screen.

5 MR. DANIELS: The report said that they
6 could not find proof that that had been remitted.

7 MR. FRIDMAN: Are you coaching the witness,
8 Mr. Daniels?

9 MR. DANIELS: No. I'm coaching you to stop
10 mischaracterizing the expert report in an effort to
11 mislead the witness.

12 MR. FRIDMAN: I could ask my cocounsel to
13 call out the number for the expert report.

14 MR. SHARP: It's Exhibit 92 if you're
15 looking for that Lemer report.

16 MR. FRIDMAN: All right. Thank you.

17 (Exhibit 92 marked.)

18 Q. (BY MR. FRIDMAN) All right. Mr. Joseph, I'm
19 showing you Exhibit 92, which is the expert report of
20 Randall Lemer.

21 Do you see that?

22 A. Yes, I do.

23 Q. Let me zoom in on it for you. I'm scrolling to
24 the portion of the opinion that addresses the payment of
25 sales taxes.

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1 Okay. You see Page 18?

2 A. Yes, I do.

3 Q. Okay. See, Paragraph 48 says BRG, which is
4 TIC's expert, right? You're aware of that?

5 A. Yes, I am aware of that.

6 Q. All right.

7 So it says that (as read): "BRG states
8 that OnePoint charged TIC a total amount of \$444,359
9 {sic} for sales tax on all journeymen electrician work.
10 And if OnePoint did not remit these sales taxes and
11 OnePoint took the wrongly invoiced taxes as excessive
12 and unreasonable profit," right?

13 A. I'm not agreeing to it. He put it there "if."

14 MR. DANIELS: He's quoting from BRG.

15 THE WITNESS: Oh, he's quoting --

16 MR. DANIELS: He's quoting from their
17 expert.

18 THE WITNESS: Okay. Got it.

19 Q. (BY MR. FRIDMAN) Right. I'm just making sure
20 that you agree that I read that correctly from our
21 expert report, right?

22 A. Okay. So --

23 Q. Right?

24 A. Okay. All right.

25 Q. Okay. So what your expert did was, first, they

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1 write (as read): "Based on Counsel's assertion that a
2 five-year statute of limitation applies, they only
3 analyzed payment of taxes from 2015 forward."

4 Do you see that?

5 A. Yes, I do.

6 Q. So your experts ignored everything paid to --
7 all the sales taxes paid by Toshiba to OnePoint before
8 2015, right?

9 MR. DANIELS: Object to the form.

10 A. Is that a question for me, Dan?

11 Q. (BY MR. FRIDMAN) Yes, it is, Mr. Joseph.

12 A. And the question is what again? Can you repeat
13 it, please?

14 Q. The question is that based on what your expert
15 is writing here, they only looked at OnePoint payment of
16 sales taxes from 2015 forward, right?

17 A. I see that, okay.

18 Q. Your experts ignored all the sales taxes that
19 Toshiba paid to OnePoint before 2015, right?

20 MR. DANIELS: Object to the form.

21 A. I don't know if they ignored it or -- but I
22 have paid sales taxes all the way from 2007 to 2019.

23 Q. (BY MR. FRIDMAN) Do you have monthly sales and
24 use tax filings with the State of Texas for before
25 January 2015 reflecting payment of sales taxes collected

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1 from TIC to the State of Texas to the local authorities?

2 A. Yes, I do.

3 Q. Have you produced those documents to us?

4 A. I believe --

5 MR. DANIELS: Have you requested them?

6 MR. FRIDMAN: I believe so.

7 MR. DANIELS: Then you've already requested
8 them. We haven't objected. Let me see if we produced
9 them. To my understanding, we only produced them here
10 because the expert brought them.

11 Q. (BY MR. FRIDMAN) All right. So going to
12 Paragraph 49 of your expert report, your expert note
13 says (as read): "I noted that for the period from
14 January 2015 through March 2017, OnePoint collected
15 sales tax from TIC based on a rate of 8.25 percent but
16 only provided evidence that 7.25 percent was remitted to
17 the State of Texas."

18 Do you see that?

19 A. Yeah, I see that, yes.

20 Q. Is that correct?

21 MR. DANIELS: That we provided evidence of
22 that, or that -- is what correct?

23 MR. FRIDMAN: The statement from your
24 expert.

25 Q. (BY MR. FRIDMAN) Did OnePoint collect sales

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1 tax from TIC based on a rate of 8.25 percent but only
2 paid 7.25 percent to the State of Texas and ignored the
3 other -- other 1 percent?

4 MR. DANIELS: That's not what this says.
5 I'm not going to let you mislead the witness by
6 mischaracterizing this -- this document. I'm not going
7 to do it. Reask your question, but ask it right.

8 Q. (BY MR. FRIDMAN) My question is: Did OnePoint
9 collect sales tax from TIC on a rate of 8.25 percent,
10 but only paid 7.25 percent to the State of Texas?

11 A. My answer is we collected sales tax from TIC
12 and we paid whatever -- whatever is by the law of Texas
13 Comptroller's requirements and we did that.

14 Q. Did you keep the 1 percent difference in sales
15 tax that you collected?

16 A. I don't know. I did not.

17 Q. Do you have evidence to provide to your experts
18 showing that you did not keep that 1 percent?

19 A. I believe I do.

20 Q. Why haven't you provided it to your expert?

21 A. I don't know the answer to that. I don't know.

22 Q. All right. I'm putting Exhibit 90 back on the
23 screen. Let's talk about 23, the total amounts invoiced
24 to and paid by TIC for work done by OnePoint on an
25 annual basis from 2007 to 2019.

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1 MR. DANIELS: What's the question?

2 Q. (BY MR. FRIDMAN) Can you tell me the total
3 amounts invoiced to and paid by TIC for work done by
4 OnePoint between 2007 and 2019?

5 A. I don't know the total amount right now.

6 Q. You're not prepared to testify about that
7 question?

8 A. I don't want to speculate. So I don't know the
9 exact number.

10 Q. Did you do any research to prepare to answer
11 30(b)(6) Topic 23 on behalf of OnePoint?

12 A. I believe I did.

13 Q. Did you research 23?

14 A. I believe I did.

15 Q. Okay. So tell me what the results are of your
16 research.

17 A. It was about 39,000 -- 39 million or so more or
18 less.

19 Q. About 39 million total?

20 A. Total, yes.

21 Q. For that time period?

22 A. That is correct.

23 Q. And broken up by year, do you have that
24 information?

25 A. I don't have it right now, but I can get it.

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1 Q. Okay. Let's move on to 24. 24 is all
2 complaints that OnePoint and/or Abraham Joseph made to
3 TIC management about Pablo D'Agostino and his conduct
4 including complaints that Pablo D'Agostino made demands
5 for payment from OnePoint.

6 MR. DANIELS: You covered that.

7 Q. (BY MR. FRIDMAN) The answer was there were no
8 complaints from you, right?

9 MR. DANIELS: The answer was what it was.
10 Move on.

11 MR. FRIDMAN: I'm sorry, Mr. Daniels. I
12 can't hear you.

13 MR. DANIELS: I said the answer was what it
14 was. Move on.

15 Q. (BY MR. FRIDMAN) Okay. Is that correct,
16 Mr. Joseph?

17 A. The answer was what it was.

18 Q. I'm asking -- I'm asking you to -- to answer
19 30(b)(6) Topic 24.

20 MR. DANIELS: Which he's already done about
21 8 or 9 hours ago. And I'm not going to let you keep
22 doing this. You've already just said, again, there are
23 no complaints. Move on.

24 MR. FRIDMAN: Are you instructing him not
25 to answer 24?

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1 MR. DANIELS: He did answer it, Dan. He
2 literally just answered it.

3 A. I said no complaints.

4 Q. (BY MR. FRIDMAN) Thank you.

5 (As read): "25, identification of all TIC
6 employees that OnePoint informed about payments and
7 gifts OnePoint was making to Pablo D'Agostino," the
8 answer is "nobody," right?

9 A. Nobody.

10 Q. (As read): "Placing Pablo D'Agostino on
11 OnePoint's payroll." The answer is "OnePoint informed
12 no one at TIC," right?

13 A. That is correct.

14 Q. (As read): "OnePoint submissions of bids in
15 the names of other companies. OnePoint informed nobody
16 at TIC about this," right?

17 A. Yes.

18 Q. Well, let's make sure what your "yes" means.

19 Did you inform anyone at TIC about your
20 submission of bids in the names of other companies?

21 A. No.

22 Q. OnePoint's inflated profit margins. We
23 discussed this yesterday. So have you discussed
24 OnePoint's profit margins on the work it did for TIC
25 with any TIC employees?

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1 A. No.

2 Q. Have you discussed the pattern that we saw
3 earlier today about journeymen electricians' hours being
4 increased with anyone at TIC?

5 A. I'm not sure if it was padding or if it was an
6 honest mistake, but I did not discuss with anybody.

7 Q. All right. And 26 asks about the same topics,
8 but in a slightly different way, it asks (as read):
9 "Are you aware of anyone outside of TIC that has
10 knowledge about Topics 1 through 5, other than the
11 people we've discussed today?"

12 A. No.

13 Q. All right. Let's go to Topic 27. When did
14 OnePoint first become aware of TIC's lawsuits against
15 Sudhakar Kalaga and Pablo D'Agostino?

16 A. I would say, when I met with you in that
17 meeting in December 2019.

18 Q. December 2019 was the first time you became
19 aware of the lawsuit?

20 A. I'm not understanding the question. Are you
21 talking about the date of the lawsuit? I don't know the
22 date of the lawsuit.

23 MR. DANIELS: When did you learn about the
24 lawsuit?

25 A. I -- I don't know the exact date when I learned

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1 about it.

2 Q. (BY MR. FRIDMAN) Do you remember how you
3 learned about it for the first time?

4 A. I believe after I met with you.

5 Q. That was after you met with me, that was the
6 first time that you learned about the lawsuit against
7 Pablo? Or I -- I thought you had talked to Pablo about
8 it before?

9 A. Right. But he did not say anything to me about
10 the lawsuit. I don't know when the lawsuit happened. I
11 don't remember the exact date when I exactly was first
12 aware of the lawsuit.

13 Q. Okay. So you think it was when you met with me
14 in December 2019, that's the first time that you
15 understood that Toshiba had a lawsuit pending against
16 Pablo D'Agostino and Sudhakar Kalaga; is that right?

17 A. Well, I knew Pablo was fired from Toshiba.

18 Q. That's not the question.

19 A. Okay.

20 I don't know. I don't know when exactly
21 the lawsuit was filed.

22 MR. DANIELS: That's not his question,
23 either. His question is when did you learn that?

24 A. Let me think about this.

25 Q. (BY MR. FRIDMAN) Okay. I know it's late.

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1 A. Okay. Okay. So I think know what it is. So I
2 think in -- probably in November. November I knew about
3 it.

4 Q. Okay. Do you remember how you found out?

5 A. Right. I do. So I was at home, I got a text
6 message from a strange number, and it says that I have
7 bad -- there is bad news about Pablo. So I don't know
8 who it was, so I texted the person back. I said, Who
9 are you? And she said it's Ashley Tucker, and that's
10 when she told me that he killed himself, and there's a
11 lawsuit that's pending against him. That's when I found
12 out. This was about a couple of weeks after he was
13 dead.

14 Q. You found out from Ashley Tucker?

15 A. That is correct.

16 Q. Were you friendly with Ashley Tucker before
17 that call or that text, rather?

18 A. Absolutely not.

19 Q. Have you met her before?

20 A. I've met her on maybe 2 or 3 occasions.

21 Q. Did you ever go on a trip with her and Pablo?

22 MR. DANIELS: Outside the topic.

23 MR. FRIDMAN: He can answer if he knows.

24 A. No. I did not take a trip with them.

25 Q. (BY MR. FRIDMAN) So why was Ashley Tucker

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1 texting you to give you this information?

2 A. I don't know.

3 Q. Did you visit with Ashley Tucker?

4 A. Yes, I did.

5 Q. Tell me about that.

6 A. When I heard the news, I just thought it was
7 human just to extend my condolences. So I went to her,
8 and she told me that he shot himself. And -- and
9 there's a lawsuit pending against him, and I was there
10 for about like 2 or 3 minutes and then I left from
11 there.

12 Q. You met with her at the penthouse apartment in
13 Arabella?

14 A. That is correct.

15 Q. Did you know that Mr. Kalaga owned that
16 apartment in Arabella?

17 A. No, I did not know that.

18 Q. All right. (As read): "Conversations OnePoint
19 and Abraham Joseph had" -- we're looking at Topic 28 --
20 "regarding TIC's lawsuit outside the presence of counsel
21 including conversation with Pablo D'Agostino, Sudhakar
22 Kalaga, Ashley Tucker, and the owners of A & A Millenium
23 and Atkins."

24 So I think we've talked about all of these
25 people except for Kalaga. Did you ever discuss the

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1 lawsuit with Mr. Kalaga?

2 A. I have not. I have not talked to him.

3 Q. Did you ever talk to Mr. Kalaga's lawyer,
4 Rusty Hardin?

5 A. No, I did not.

6 Q. (As read): "Topic 29, Pablo D'Agostino and/or
7 Sudhakar Kalaga's instruction or direction to OnePoint
8 to submit bids from projects between 2011 and 2019 at a
9 particular price."

10 Did you ever receive an instruction or
11 direction from Pablo D'Agostino or Sudhakar Kalaga to
12 submit a bid for a project between 2011 and 2019 at a
13 particular price?

14 A. I did not.

15 Q. Topic 30, we've gone over some of these. I'm
16 not going to keep going through them. So let's skip
17 ahead.

18 (As read): "Topic 31, OnePoint's overall
19 corporate structure including the shareholders,
20 officers, directors, and the existence of any corporate
21 parent subsidiaries or affiliates."

22 So I want to talk about OnePoint corporate
23 structure between 2007 to 2019. So you can tell me if
24 the corporate structure has changed at all during those
25 years, all right? First, starting in 2007, who were the

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1 shareholders at OnePoint?

2 A. There was no share- -- I was the 100 percent
3 owner.

4 Q. And has that been true through the present day?

5 A. That is correct.

6 Q. And what other positions do you hold at
7 OnePoint?

8 A. I just have one position as a president.

9 Q. Are there any other people that have or may
10 have had at one point an ownership interest in OnePoint?

11 A. No.

12 Q. Does OnePoint own any other companies?

13 A. No.

14 Q. 32 and 33, we looked at your website and you
15 described work that you do for other clients. I just
16 want to know, generally, other than the work that
17 OnePoint did for Toshiba, you know, starting in 2007,
18 what type of work was OnePoint doing?

19 A. We've done schools. We have done hospitals.
20 We have done medical clinics. We have done some work
21 for KBR, Kellogg, Brown, and Root. We have done
22 churches, universities.

23 Q. And what type of work have you done for those
24 entities?

25 A. In some cases, we have done ground-up buildings

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1 from -- all the way -- from grass all the way to a full
2 building. And in some cases, we have done some interior
3 remodel work.

4 Q. Does OnePoint own any equipment, heavy
5 machinery?

6 A. We do own equipment, yes.

7 Q. What kind of equipment does OnePoint own?

8 A. We have compressors, generators, negative air
9 pressure machines, scaffoldings, jackhammers --

10 Q. Do you own any --

11 A. -- trucks.

12 MR. FRIDMAN: Did someone object?

13 A. Sorry.

14 MR. FRIDMAN: I thought I heard an
15 objection.

16 Q. (BY MR. FRIDMAN) All right. Go ahead.

17 A. I can repeat -- you want me to repeat those
18 lists again?

19 Q. No, it's okay.

20 Does OnePoint primarily rely on
21 subcontractors to do the construction work?

22 A. We have in-house employees, so we do
23 self-perform, too. But on special things like
24 electrical, plumbing that requires licensing, we sub it
25 out.

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1 Q. What about ground-up building from the grass?

2 A. We have done ground-up buildings where the
3 structural and the tilt-wall was outsourced. But once
4 the framing was done, we did a lot of the interior chips
5 and bolt and framing and all of that stuff,
6 self-performed it.

7 Q. So is OnePoint like a general contractor or --
8 or something different than that?

9 A. We are a general contractor.

10 Q. Is that how you describe yourself?

11 A. Yes.

12 Q. (As read): "Topic 34, the identification of
13 OnePoint employees responsible for preparing bids,
14 hiring subcontractors, performing construction, and
15 maintenance work for TIC projects."

16 So what OnePoint employees were responsible
17 for preparing bids? Was that just you?

18 A. Primarily me, but in some cases, in the past,
19 David has done some, too. David Headrick.

20 Q. But he didn't prepare the fake bids, right?

21 A. No, he did not.

22 Q. And he didn't know about them?

23 A. He did not know about them.

24 Q. Who's responsible for hiring subcontractors?

25 A. I'm responsible, and so could -- David also

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1 could hire subcontractors. Either one of us.

2 Q. Okay. 35 is -- is broad. So I want to focus
3 on it. 35 asks for the identity of the subcontractors
4 used by OnePoint to complete work at TIC's facilities
5 for each purchase order issued to OnePoint.

6 So my -- my question on that topic is this,
7 were there some subcontractors like EMS that OnePoint
8 relied on heavily to do work at TIC over the years?

9 A. I've relied on some, but I wouldn't use the
10 term "heavily." I've used Mason Mechanical.

11 Q. You've used Mason Mechanical?

12 A. Yes, I have.

13 Q. For what?

14 A. For some HVAC work.

15 Q. Okay. Any other subcontractors that you've
16 used?

17 A. I've used Trio Electric, Strong Electric,
18 Keystone, tilt wall companies.

19 Q. Any others that are significant in your mind?

20 A. I -- I can't think of any right now apart from
21 the list I just gave you.

22 Q. Okay. For 36, we gave you a list of projects
23 and we asked you to be prepared to discuss OnePoint's
24 work pricing, bidding, and profit margins for these
25 projects. So you see the list of projects there?

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1 A. Yes, I do.

2 Q. Can you tell me what your profit margins were
3 for the projects identified in that chart for 36?

4 A. I do not know.

5 Q. Why don't you know?

6 A. Control plant expansion was an extremely
7 extensive project that lasted over three years. It
8 would be very hard for me to calculate what my profit
9 margin was on that job.

10 Q. Do you ever calculate your profit margins for
11 jobs?

12 A. I don't calculate it, but the projects that
13 I've -- that I've launched, I'll be looking into that
14 very carefully.

15 Q. Now, did you go back and try to calculate the
16 costs for the projects in Paragraph 36?

17 A. No, I did not.

18 Q. So you're not able to tell me today what your
19 profit margins were for these projects, right?

20 A. No, I cannot.

21 Q. Let's go ahead and go to 37. I think 37 we've
22 gone over.

23 38, we've hit upon 36 the amount of profit
24 earned by OnePoint on each purchase order issued by TIC
25 and on an annual basis from TIC. So I understand that

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1 on a project-by-project basis, you don't have the
2 ability to tell me the profit margins because you
3 haven't computed them. How about on an annual basis
4 from TIC, have you ever calculated the profitability of
5 the work that you did for TIC?

6 A. I've not done a detailed calculation, but --
7 but I have a rough idea of what it could be.

8 Q. Tell me what your rough idea is.

9 A. I'm not sure. It is a range. It could be 30
10 to 50 -- 30 to 45 percent in the overall scheme of
11 things.

12 Q. Right.

13 Altogether, you think your profit margin on
14 TIC projects was about 35 to 40 percent?

15 A. I really don't know. I would be speculating at
16 this time. My best estimate would be around 30 to
17 55 percent.

18 Q. 30 to 55 percent?

19 A. Yes.

20 Q. And that -- that would be taking into account
21 what you described earlier as I believe about
22 \$39 million worth of work?

23 A. That's -- that is not the complete profit per
24 se, but I still have to deduct -- that will be just the
25 raw profits. That's not taking into consideration my --

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1 my general conditions, my overheads, and all that stuff.

2 Q. Allocations of -- of fixed expenses you're
3 talking about?

4 A. Yes, correct. And other expenses.

5 Q. Did you try to calculate that out to prepare to
6 answer Topic No. 38?

7 A. No, I did not.

8 Q. All right. Topic 39, the relationship between
9 Abraham Joseph and Pablo D'Agostino including
10 conversations between them.

11 So tell me about your relationship with
12 Pablo D'Agostino.

13 A. Well, to me, Pablo was the face of Toshiba. We
14 did work for him, and we were happy with the work. We
15 gave them a quality job, and I would not consider --
16 well, there is no relationship. I mean, he's not my
17 friend or anything like that.

18 Q. You didn't consider him to be a friend of
19 yours?

20 A. No, I did not.

21 Q. Did you see Pablo D'Agostino before he killed
22 himself?

23 A. Yes, I did.

24 Q. After he was terminated from TIC?

25 A. Yes, I did.

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1 Q. And tell me -- tell me about that.

2 A. He just showed up at my office just clear out
3 of the blue. He didn't call me or anything. He was
4 dropping his car at the dealership, and he told me that
5 he was -- he was fired from Toshiba. He was let go from
6 Toshiba.

7 Q. Did he tell you why?

8 A. He mentioned briefly that there was a fire and
9 there was some insurance company issues, and that -- and
10 that was the reason for him being let go.

11 Q. All right. And what else did he tell you about
12 his termination?

13 A. I'm trying to recall.

14 Q. Did he tell you whether he was under criminal
15 investigation?

16 A. No. He did not get into specifics, no.

17 Q. Did he tell you that he was planning to leave
18 the country?

19 A. I believe so. He did say that, yes.

20 Q. What -- what did he tell you?

21 A. Well, he said -- well, he -- he blamed
22 Margaret McKay saying she has something to do with this,
23 and -- and he said that I'm flying to -- I might just go
24 back to Argentina.

25 Q. You knew he was from Argentina?

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1 A. Yes, I knew that.

2 Q. Did he ask you for any information about TIC or
3 its employees?

4 A. No, nothing.

5 Q. Did he ask you for any information about
6 Margaret McKay since you mentioned her?

7 A. No, he did -- he did not.

8 Q. Did he make any threats of physical violence
9 against anyone at TIC while he was with you?

10 A. He did.

11 Q. Tell me what he did.

12 A. He said that he wants to get even with
13 Margaret McKay.

14 Q. And you took that to mean that -- that he
15 wanted to physically harm her?

16 A. I assume -- yes, I did.

17 Q. Okay. What about what he said made you believe
18 that?

19 A. Because he used some bad words about her, and
20 he was very upset with her.

21 Q. Did he say that he wanted to kill her?

22 A. Pretty close to it.

23 Q. What -- as best as you can recall, what did he
24 tell you?

25 A. He said -- he said I want -- I want to beat the

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1 shit out of her or something to that effect, yeah.

2 Q. Did you think he was serious?

3 A. I -- I don't know.

4 Q. Did he ask you to provide him with any
5 information about the work that you did at Magee McKay's
6 house?

7 A. Yes, he did.

8 Q. Tell me what -- what he asked you for?

9 A. He asked me if I still had documentation of the
10 work that I did at Margaret McKay's house.

11 Q. And why was he asking for that documentation?

12 A. I have no idea why.

13 Q. And what -- what would that documentation show?

14 A. I know what the documentation is, but I don't
15 know why he wanted the document.

16 Q. Right.

17 And tell me what -- what is the document.
18 What work did you do at Margaret McKay's house?

19 A. I've been to her house on two occasions. First
20 occasion was -- but one occasion was during Hurricane
21 Ike.

22 Q. Yes.

23 A. I believe there was some water flooding issues
24 in her house, and the second time it was something to do
25 with some handrails and some plumbing work in her house

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1 after she has --

2 Q. And --

3 A. -- after she had surgery on her leg.

4 Q. And did you charge Margaret McKay fair market
5 value price for the work?

6 A. I charged her below the market value price.

7 Q. Did she ask you to charge her the market price?

8 A. Her exact words was "Pablo is a bully, and he
9 will tell you not to bill me, but you need to bill me."
10 She didn't use the word fair market price.

11 Q. But she told you to bill you for the work -- to
12 bill her for the work?

13 A. She did.

14 Q. And you billed her for the work?

15 A. I billed her for the work, but I was caught
16 between Margaret McKay and Pablo because Pablo back then
17 told me that you are not going to charge her at all.

18 Q. I see. So you -- you disobeyed Pablo's
19 instruction?

20 A. I -- I came up with a hybrid plan, and I -- and
21 I came up with a number which was below the market value
22 but -- and, of course, Pablo knew about it, and he was
23 very upset with me about that.

24 Q. And did Pablo want to use this document in some
25 way against Ms. McKay?

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1 A. I don't know what his intention was, but he did
2 ask me for the document. I did not give it to him.

3 Q. Okay. All right. We've covered Topic 40, 41.

4 Topic 42, are you aware of any work that
5 OnePoint was paid for by TIC but it was never completed?

6 A. I don't -- none.

7 Q. Are you aware of OnePoint receiving payments
8 from TIC for work that OnePoint never did at all?

9 A. I don't believe so, no.

10 Q. You're not sure?

11 A. I don't think I've left any work unfinished.

12 Q. Topic 43, did you on occasion prepare
13 PowerPoint presentations for Pablo?

14 A. I did not.

15 Q. Did you prepare to -- any PowerPoint
16 presentations to assist Pablo with bids?

17 A. I did not.

18 Q. Or justifying work?

19 A. I did not.

20 Q. I think we've covered 44. We've covered 45.
21 We've covered 46. We've covered 47.

22 All right. 48, and I -- I think your
23 counsel may have an objection to this, but I'll ask it.
24 48 reads (as read): "In furtherance of TIC's
25 constructive trust claim, provide the total amount of

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1 annual distributions of profit and salary by OnePoint to
2 its shareholders from 2007 to 2019. That includes
3 proceeds of payments made by TIC."

4 Can you provide that information to me?

5 A. I believe the answer --

6 THE WITNESS: Do you have some objections?

7 MR. DANIELS: Yeah -- no, no, no.

8 THE WITNESS: That's why I'm keeping quiet.

9 MR. DANIELS: Going back, I'm looking at
10 the notes. We've already established he doesn't really
11 have a good feel for the profit.

12 MR. FRIDMAN: The question relates to the
13 annual distributions that Mr. Joseph receives personally
14 as what we know as a sole shareholder of OnePoint
15 between 2007 and 2019.

16 MR. DANIELS: Yeah. Dan, let's -- let's --
17 let's not -- I'm going to instruct him not to answer
18 this now. We can talk about whether there is a
19 different way, if you're willing to do it, to get you
20 this information, and let's -- let's agree to work this
21 one out offline.

22 MR. FRIDMAN: I'm -- I'm willing to do that
23 or -- or if you want to think about it overnight and we
24 can revisit it tomorrow if --

25 MR. DANIELS: Yeah. I mean, I -- if it's

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1 information that we ultimately end up being willing to
2 give you. I think we can give it to you in a way that
3 is just as effective as you asking him about it here,
4 because he's not going to know the answer off the top of
5 his head sitting here.

6 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

MR. FRIDMAN: All right. So -- well, Mr. Daniels, we'll -- let's talk about it and -- and see if you can get us the specifics.

MR. DANIELS: Okay.

Q. (BY MR. FRIDMAN) 49 is a similar vein. Annual revenue and profit figures of OnePoint from 2007 to 2019.

MR. DANIELS: Are you able to answer that?

A. Which one was that? No. 49?

MR. DANIELS: 49.

Q. (BY MR. FRIDMAN) Yes.

A. I cannot answer -- I cannot answer it right now, no.

Q. (BY MR. FRIDMAN) Okay.

MR. FRIDMAN: Is that one that we can also talk about offline, Mr. Daniels?

MR. DANIELS: Sure. And, I mean, my point on this series, assuming this is information we're

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1 willing to turn over without the court having to, you
2 know, get involved, I think we can get much more
3 accurate information to you than what he would be able
4 to provide here in a deposition.

5 MR. FRIDMAN: All right.

6 MR. DANIELS: I'm not suggesting -- well,
7 later.

8 MR. FRIDMAN: Yeah.

9 Q. (BY MR. FRIDMAN) All right. Topic No. 50, the
10 identification, location, last known address, telephone
11 number, and email address of any person having or
12 believed to have any documents or -- other electronic or
13 nonelectronic files regarding the topics or facts
14 underlying these topics.

15 Is there anyone that we haven't discussed
16 today that has information that's relevant to the bids,
17 the profits, the payments to Pablo?

18 A. It's just me. No, there's nobody else.

19 Q. What about Karat 22?

20 A. What about it?

21 Q. Is that Aku Patel?

22 A. What is the question?

23 Q. Are you -- do you know that? Do you know that
24 establishment?

25 A. Yes, I do.

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1 Q. Did you ever purchase anything for
2 Pablo D'Agostino for Karat -- from Karat 22?

3 A. I did not.

4 Q. Do you know if Pablo purchased items for
5 himself from Karat 22?

6 A. I don't know.

7 Q. What about Sudhakar Kalaga?

8 A. I believe he did base on what I was told.

9 Q. What were you told?

10 MR. DANIELS: And who were you told by?

11 THE WITNESS: By the son of the jewelry
12 store guy.

13 MR. DANIELS: You can answer.

14 Q. (BY MR. FRIDMAN) What were you told by the son
15 of a jewelry store owner?

16 A. He said that Sudhakar has come there and bought
17 some stuff.

18 Q. And did -- did he say whether he was buying a
19 stuff for -- for Pablo or with Pablo?

20 A. He did not.

21 Q. All right. So that takes us to the end of our
22 topics.

23 MR. FRIDMAN: What I'd like to do is take a
24 brief three-minute break. I'll regroup with my
25 cocounsel and see if there's any last questions that

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1 we've not addressed and -- and we can pass.

2 MR. DANIELS: Okay. And the purpose of
3 this -- I'm going to ask Sandy to go next because he's
4 going to be somewhere at 7:30; and then, Penn, with your
5 indulgence, I will ask you to go after that in case
6 Sandy wants to go and leave because we would like to
7 finish tonight.

8 MR. FRIDMAN: Yeah. And I only have a
9 couple of minutes.

10 MR. DANIELS: All right.

11 MR. FRIDMAN: All right. So just give me
12 --

13 MR. DANIELS: Let's take -- how long do you
14 want, Dan?

15 MR. FRIDMAN: Just give me five minutes.

16 MR. DANIELS: Okay.

17 MR. FRIDMAN: All right.

18 THE VIDEOGRAPHER: All right. This is the
19 end of Video 7 of Abraham Joseph. Off the record at
20 6:54.

21 (A break was taken from 6:56 p.m. to
22 7:00 p.m.)

23 THE VIDEOGRAPHER: We're now back on the
24 record, Video 8 of Abraham Joseph. The time is
25 approximately 7:01.

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1 Q. (BY MR. FRIDMAN) Mr. Joseph, while we're on a
2 break, your counsel informed us that you had remembered
3 something additional about Karat 22. So please tell us
4 what you remember.

5 A. It wasn't additional, I just -- I remember the
6 exact -- so it was not the owner's son who told me about
7 it. It was Pablo. He told me that -- that he had gone
8 to Karat 22 with Sudhakar, and I was shocked how would
9 Pablo know about Karat 22, which is an Indian jewelry
10 store. So that's how I found out about it.

11 Q. I see. So you understood that Pablo D'Agostino
12 was introduced to Karat 22 by Sudhakar?

13 A. That is correct.

14 Q. I got it.

15 Okay. Have you ever heard of a
16 construction company called Intertec?

17 A. I have not.

18 Q. Do you know a person named Mark Kinsella?

19 A. No, I do not.

20 Q. When you first met Pablo D'Agostino, did he
21 appear to be someone that was wealthy?

22 A. Not to me.

23 Q. Do you remember what car he drove?

24 A. I don't remember.

25 MR. FRIDMAN: All right. Well, Mr. Joseph,

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1 I really appreciate your -- your time and patience today
2 in answering my questions. So thank you very much.

3 THE WITNESS: Thank you.

4 MR. FRIDMAN: At this time, I'll pass --
5 pass him to the next person.

6 MR. DOW: Thank you. Thank you, Dan.

7 FURTHER EXAMINATION

8 BY MR. DOW:

9 Q. Mr. Joseph, my name is Sanford Dow, and the
10 hour is late. So I just have a few follow-up questions.
11 I represent the estate of Mr. D'Agostino.

12 And are you familiar with a company called
13 PD Rentals, LLC?

14 A. I'm not.

15 Q. Okay. And what about a company called
16 January 22 1992 LLC?

17 A. I am not.

18 Q. When you met with Mr. Fridman in December of
19 2019, who participated in that meeting?

20 A. From my end or from Toshiba's end?

21 Q. Everybody.

22 A. From my end, it was me and my attorney
23 Kelly Stephens.

24 Q. Okay.

25 A. And from Toshiba's side, I can just name a few.

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1 I don't know who all those people. Margaret McKay was
2 there, Dan Fridman, and there was at least six or seven
3 other people in the room.

4 Q. Okay. And at that point in time, did you
5 believe that you were a target defendant in this
6 lawsuit?

7 A. No, I did not -- no.

8 Q. Okay. Did anyone from Toshiba tell you that
9 you were not going to be a defendant?

10 A. Can you rephrase that question?

11 Q. Sure.

12 Did anybody from Toshiba tell you that if
13 you cooperated with them at this meeting with them that
14 you were not going to be a defendant in this lawsuit?

15 A. No, they did not.

16 Q. Okay. Did anyone from Toshiba tell you that
17 they were going to open a criminal investigation against
18 you?

19 A. No, they did not.

20 Q. Okay. Do you know if a criminal investigation
21 is pending against you?

22 A. No, I'm not aware of it.

23 Q. Okay. Did anyone from Toshiba ever have any
24 material complaints about the quality of work that
25 OnePoint performed?

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1 A. There was no complaints.

2 Q. Okay. And were the charges that OnePoint
3 charged Toshiba consistent with what's sort of an
4 acceptable norm within the industry?

5 A. Yes, it was.

6 Q. Okay. And -- and tell me once again why you
7 made those payments to Mr. D'Agostino?

8 A. Because he demanded those payments. We wanted
9 to continue to work in -- in TIC.

10 Q. Are you aware of any other TIC employees who
11 may have received any monies from Mr. D'Agostino?

12 A. I'm aware of it now after this -- when I read
13 some -- some of the lawsuits. I did not know it then.

14 Q. Okay. Did any other Toshiba employee ever ask
15 you to make a payment to them?

16 A. No, they did not.

17 Q. Are you aware of any Toshiba employees who have
18 been fired as a result of any of the allegations in this
19 lawsuit?

20 A. I don't know the specific, but I heard some of
21 them were fired.

22 Q. Okay. Do you -- do you know who those persons
23 are?

24 A. I can't speculate, but I'm not sure who they
25 are.

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1 Q. Okay. You don't -- you don't have any of their
2 names?

3 A. I believe Ken Shaffer is fired.

4 Q. Okay. Did Mr. Shaffer ever make a request that
5 you or OnePoint pay him any sum of money?

6 A. No, he did not.

7 Q. Other than Pablo D'Agostino did anyone from
8 Toshiba ever ask that either you or OnePoint make any
9 type of payment to them?

10 A. No, they did not.

11 Q. Has Toshiba offer to -- offer to settle this
12 lawsuit with you?

13 MR. DANIELS: I think, Counsel, the only
14 way he can answer that if he discloses attorney-client
15 communications.

16 MR. DOW: Fair enough. Fair enough.

17 MR. DANIELS: So I'm going to instruct him
18 not to answer.

19 MR. DOW: Okay.

20 Q. (BY MR. DOW) Did Mr. D'Agostino ever ask you
21 to do anything that you considered to be illegal?

22 A. No.

23 Q. (BY MR. DOW) Other than perhaps violating TIC
24 protocol or internal policy, are you aware of any crime
25 committed by Mr. D'Agostino?

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1 A. No, I'm not.

2 MR. DOW: No further questions.

3 FURTHER EXAMINATION

4 BY MR. HUSTON:

5 Q. Good evening, Mr. Joseph. My name is Penn
6 Huston. I represent Vinod Vemparala and V2V Solutions.
7 I think I understand this from your earlier testimony
8 today, but I want to confirm it.

9 Have you ever met or spoken with
10 Vinod Vemparala?

11 A. No, I have not.

12 Q. Have you ever communicated with him in writing
13 either by email or text any other written method?

14 A. I have not.

15 Q. Before the -- well, have you ever communicated
16 orally or in writing with anyone else from V2V
17 Solutions?

18 A. No, I have not.

19 Q. Are you familiar with Sirmag Industrial
20 [phonetic]?

21 A. I have no idea who they are.

22 Q. Okay. To your knowledge, have you ever
23 communicated either orally or in writing with Sirmag
24 Industrial?

25 A. No, I have not.

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1 Q. I want to look back at a document that we
2 looked at earlier today. It's Exhibit 78.

3 Are you -- are you seeing anything on your
4 screen? Are you seeing a document on your screen?

5 A. Yes, I am.

6 MR. DANIELS: But it's a request for
7 production, Penn.

8 MR. HUSTON: Okay. Let me try to correct
9 that. Bear with me one moment.

10 MR. DANIELS: Or a response.

11 MR. HUSTON: Yeah.

12 MR. FRIDMAN: Okay. We'll probably have to
13 purge whatever documents were not formally introduced as
14 exhibits after this is done.

15 MR. DANIELS: Could we do it tomorrow?

16 MR. FRIDMAN: Yes.

17 Q. (BY MR. HUSTON) Are you now seeing an email
18 on your screen?

19 A. Yes, I am.

20 Q. Okay. Thank you. I apologize for that.

21 And this is Exhibit 78. And you look at it
22 earlier today. It's -- it's an email. And because it's
23 an email you kind of read it chronologically from the
24 bottom up, but it began with a bid from V2V Solutions.

25 Do you recall looking at Exhibit 78 earlier

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1 today?

2 A. Yes, I do.

3 Q. Okay. And this bid from V2V Solutions, do you
4 have any reason to believe that it was anything other
5 than a genuine bid?

6 A. It appears to be a genuine bid.

7 Q. And there was one email that I wanted to follow
8 up with you about that's in this chain. There's an
9 email from Mr. Kalaga to you that says (as read): "The
10 guy is in Ohio. He sent an email to him. Did I mess
11 up?"

12 Do you see that?

13 A. Yes, I do.

14 Q. And I want to get any understanding that you
15 have about this email. The -- the second clause here
16 says, "he sent an email to him."

17 Do you know who Mr. Kalaga was referring to
18 when Mr. Kalaga said "he," and who Mr. Kalaga was
19 referring to when he said "him"?

20 A. I don't know.

21 Q. Okay. He also says "did I mess up?" Do you
22 have any understanding of why Mr. Kalaga was asking you
23 whether he had messed up?

24 A. I have no idea.

25 Q. I asked you about the bid that's attached to

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1 Exhibit 78 and asked you if you had any reason to
2 believe it wasn't a genuine bid. Let me ask more
3 generally.

4 Do you have any reason to believe that any
5 bid submitted by V2V Solutions was not genuine?

6 A. I have not seen any bid from V2V except this
7 particular one that is on the display. So I cannot
8 speak for the other bids they have -- other bids that
9 they have sent.

10 Q. Fair enough.

11 MR. HUSTON: Thank you. I pass the
12 witness.

13 MR. DANIELS: You're good.

14 MR. FRIDMAN: Just one -- one last quick
15 thing. Just to follow up on one question that Mr. Dow
16 asked.

17 MR. DANIELS: I think you've got like 45
18 seconds left on your time.

19 FURTHER EXAMINATION

20 BY MR. FRIDMAN:

21 Q. All right. I am -- I'm going to show you
22 Exhibit 105 one more time. This is the document that
23 was the agreement for services or work performed on
24 premises from 2007 that contained Toshiba standards of
25 conduct.

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1 Do you remember that?

2 A. I remember that.

3 Q. I want to direct your attention to Paragraph 10
4 of the contract you signed with Toshiba. Paragraph 10,
5 it says (as read): "Compliance with company policies,"
6 and it says "at all times during the performance of the
7 work, contractor and its employees shall be subject to
8 and shall comply with all of the company's policies,
9 including without limitation, its equal employment
10 opportunity, business conduct, drug-free workplace,
11 safety, and environmental policies." Copies of each of
12 those policies are attached as Attachment B.

13 And it says "contractor shall execute and
14 cause its employees and subcontractors and their
15 employees performing any portion of the work to execute
16 such agreements and documents evidencing their
17 compliance with the requirements of this paragraph as
18 the company may require."

19 So my question to you is, you agreed in
20 this contract that you signed with Toshiba to comply
21 with Toshiba's standard of conduct that applied to
22 Toshiba's employees, correct?

23 MR. DANIELS: Object to -- object to form.

24 A. I'm under the impression that these policies
25 applied to officers and employees of Toshiba. It

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1 doesn't apply to me per se.

2 Q. (BY MR. FRIDMAN) Well, in Paragraph 10, aren't
3 you agreeing as the contractor that you and your
4 employees are subject to and will comply with all of the
5 company's policies including its business conduct
6 policies, right?

7 MR. DANIELS: Object to the -- object to
8 the form. The document speaks for itself. We've
9 already gone over this and this is outside -- this has
10 nothing to do with what Mr. Dow asked.

11 MR. FRIDMAN: Mr. Dow asked about
12 whether -- other than -- than policies of Mr. D'Agostino
13 had done anything illegal. So I'm asking Mr. --
14 Mr. Joseph if he believed he was subject to the same
15 policies that Pablo D'Agostino was subject to.

16 MR. DANIELS: Totally different line of
17 questioning and line of argument. And if you -- if you
18 understand what he's asking.

19 THE WITNESS: I don't understand what he's
20 asking. I thought this applies to Pablo's business
21 conduct, and not my business conduct.

22 MR. FRIDMAN: Right.

23 No other questions.

24 MR. DANIELS: All right. Anything further,
25 Penn?

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1 MR. HUSTON: Nothing for me. Thank you.

2 MR. DANIELS: I think Sandy left.

3 No, he's there.

4 MR. DOW: No further.

5 MR. DANIELS: All right. You're done.

6 THE VIDEOGRAPHER: This now ends Video 8 of
7 Abraham Joseph. Off the record, 7:17.

8 THE CERTIFIED STENOGRAPHER: Before
9 everyone leaves, I need to confirm orders.

10 Since this is Federal, are there any other
11 stipulations you guys want to put on the record?

12 MR. FRIDMAN: No, I don't think so.

13 But, Sam, do you want to place the order
14 for the plaintiff?

15 MR. SHARP: Madame Court Reporter, to the
16 extent we haven't already ordered it, can we please be
17 provided with a rough transcript? And we do not -- for
18 the transcript, we do not need it synced with the video
19 at this time.

20 THE CERTIFIED STENOGRAPHER: Would anyone
21 else like to purchase a copy of the rough transcript?

22 MR. HUSTON: This is Penn Huston. I would
23 like a copy of the transcript, not rushed, not roughed.

24 THE CERTIFIED STENOGRAPHER: Okay.

25 THE VIDEOGRAPHER: You want the video,

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1 Mr. Huston?

2 MR. HUSTON: No, thank you.

3 MR. DANIELS: Okay. This is Doug Daniels.
4 By the way, the witness will read and sign.

5 The defendants, OnePoint and Mr. Joseph,
6 would like a -- just an electronic copy on a regular
7 time schedule, no rough, and we do want the video. Not
8 synced at this time.

9 THE VIDEOGRAPHER: Okay.

10 THE CERTIFIED STENOGRAPHER: Thank you.

11 (Proceedings concluded at 7:20 p.m.)
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DATE OF DEPOSITION: December 16, 2020

PAGE	LINE	CHANGE	REASON
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[illegible]

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1 I, ABRAHAM JOSEPH, have read the foregoing
 2 deposition and hereby affix my signature that same is
 3 true and correct, except as noted above.

4
 5 _____
 ABRAHAM JOSEPH

6
 7
 8
 9 THE STATE OF _____)

10 COUNTY OF _____)

11 Before me, _____, on
 12 this day personally appeared ABRAHAM JOSEPH, known to me
 13 (or proved to me under oath or through
 14 _____) (description of identity card or
 15 other document) to be the person whose name is
 16 subscribed to the foregoing instrument and acknowledged
 17 to me that they executed the same for the purposes and
 18 consideration therein expressed.

19 Given under my hand and seal of office this
 20 ____ day of _____, 2020.

21
 22
 23
 24 _____
 NOTARY PUBLIC IN AND FOR

THE STATE OF _____

25 Commission Expires: _____

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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

TOSHIBA INTERNATIONAL)
CORPORATION)
Plaintiff,)
v.) NO.: 4:19-cv-04274
ABRAHAM JOSEPH, an)
individual, ONEPOINT,)
INC., RUDOLPH CULP, as)
independent administrator)
of the ESTATE OF)
Pablo D'Agostino, PD)
RENTALS, LLC, JANUARY 22)
1992, LLC, VINOD)
VEMPARALA, an individual,)
V2V SOLUTIONS, LLC, and)
CHETAN VYAS, an)
individual,)
Defendants.)

REPORTER'S CERTIFICATION
DEPOSITION OF ABRAHAM JOSEPH

December 16, 2020

That the deposition transcript was delivered
to Mr. Daniel Fridman.

That a copy of this certificate was served on
all parties and/or the witness shown herein on
_____.

I further certify that pursuant to FRCP
Rule 30(f)(1) that the signature of the deponent:
_____ was requested by the deponent or a party
before the completion of the deposition and that

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1 signature is to be before any notary public and returned
2 within 30 days from date of receipt of the transcript.

3 If returned, the attached Changes and
4 Signature Page contains any changes and the reasons
5 therefore:

6 _____ was not requested by the deponent or a
7 party before the completion of the deposition.

8 I certify that I am neither counsel for,
9 related to, nor employed by any of the parties or
10 attorneys in the action in which this proceeding was
11 taken, and further that I am not financially or
12 otherwise interested in the outcome of the action.

13 Certified to by me this _____ day of _____,
14 2020.

15
16
17
18
19


20 _____
ABIGAIL GUERRA, Texas CSR 9059

Expiration Date: 12/31/22

VERITEXT LEGAL SOLUTIONS

21 Firm Registration No. 571

300 Throckmorton Street

22 Suite 1600

Fort Worth, Texas 76102

23 Phone: (817) 336-3042
24
25

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COUNTY OF _____)
STATE OF TEXAS)

I hereby certify that the witness was notified
on _____, that the witness has 30 days or
(_____ days per agreement of counsel) after being
notified by the officer that the transcript is available
for review by the witness and if there are changes in
the form or substance to be made, then the witness shall
sign a statement reciting such changes and the reasons
given by the witness for making them;

That the witness' signature was/was not returned as
of _____.

Subscribed and sworn to on this, the _____
day of _____, 2020.



ABIGAIL GUERRA, Texas CSR 9059
Expiration Date: 12/31/22
VERITEXT LEGAL SOLUTIONS
Firm Registration No. 571
300 Throckmorton Street
Suite 1600
Fort Worth, Texas 76102
Phone: (817) 336-3042

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1 January 8, 2020
2 ABRAHAM JOSEPH
3 C/O: Mr. Doug Daniels
4 OF: THE JACKSON LAW FIRM
5 3900 Essex Lane
6 Suite 1116
7 Houston, Texas 77027
8 Daniel@jacksonlaw-tx.com

9 Re: 12/16/2020 Deposition of: ABRAHAM JOSEPH
10 Toshiba International Corporation vs.
11 Abraham Joseph Et Al.

12 Dear Sir/Madam:

13 This letter is to advise that the transcript of
14 the above-referenced deposition has been completed
15 and is available for review. Please contact our
16 office to come to our office at (800-726-7007 to
17 make arrangements to read and sign or sign below to
18 waive review of this transcript.

19 It is suggested that the review of this
20 transcript be completed within 30 days of your
21 receipt of this letter, as considered reasonable
22 under Federal Rules*; however, there is no Florida
23 Statute to this regard.

24 The original of this transcript has been
25 forwarded to the ordering party and your errata, once
received, will be forwarded to all ordering parties.

Sincerely,

Abigail Guerra, CSR

WAIVER:

I, _____ hereby waive the reading &
signing of my deposition transcript.

Deponent Signature

Date

*Federal Civil Procedure Rule 30(e)/Florida Civil
Procedure Rule 1.310(e)

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Veritext Legal Solutions

800-726-7007

305-376-8800

Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS
COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

Veritext Legal Solutions is committed to maintaining the confidentiality of client and witness information, in accordance with the regulations promulgated under the Health Insurance Portability and Accountability Act (HIPAA), as amended with respect to protected health information and the Gramm-Leach-Bliley Act, as amended, with respect to Personally Identifiable Information (PII). Physical transcripts and exhibits are managed under strict facility and personnel access controls. Electronic files of documents are stored in encrypted form and are transmitted in an encrypted fashion to authenticated parties who are permitted to access the material. Our data is hosted in a Tier 4 SSAE 16 certified facility.

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